Acta Sanctae Sedis

Acts of the Holy See

Holy See; Vatican

An English translation of the Latin edition
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[*Latin ed. p. 1*]

A conveniently compiled and illustrated compendium of the acts of the Holy See, containing the more important legal and solemn acts which proceed directly from the Supreme Roman Pontiff, whether these are Decrees, Instructions, Responses, or other similar documents; especially, expositions and resolutions of cases from the various Sacred Congregations of the Most Eminent Cardinals, carefully prepared to promote a thorough understanding and observance of ecclesiastical law, and other legal matters, by which those things which may present difficulty in the aforementioned acts are suitably explained, or which further contribute to the knowledge of existing law, for the benefit of those who diligently study the laws of the Church, and who labor diligently in the governance of the Christian flock, or in the cultivation of the Lord's vineyard.

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[*Latin ed. p. 3*]

FROM THE HOLY CONGREGATION OF THE COUNCIL FOR THE CAUSE OF BEATS, July 31, 1869, Summary of Facts. Lucy, a widow, was married in the year 1853 to John in the town of N. Both spouses were inhabitants of the same town, but were not of the same age: Lucy being considerably older. The harmony of their life together was not of long duration: for scarcely a few months had elapsed when quarrels and disagreements arose, so exasperating the minds of the spouses that the husband is said to have repeatedly left and returned to his wife, until he departed in such a way that it seemed he did not intend to return to her: disregarding all duties and counsel, both of the Parish Priest and of his parents and friends. After living together for nearly ten years, Lucy, on October 11, 1865, through the local Parish Priest, requested a separation from the ecclesiastical court, alleging various accusations against her husband, namely: 1°, that John possessed a choleric and harsh disposition, so that when, on one day, she mildly reproached him for his bad habits, he, inflamed with anger, insulted and reviled her with words that also referred to conjugal duties; and that, before the final and prolonged separation, without any just and legitimate cause, he had left her three times; 2°, that shortly after the beginning of their marriage, he began to frequent taverns, and there became accustomed to becoming intoxicated; from which arose disagreements, quarrels, and

brawls; 3°, that by indulging in such a life, he had almost encumbered his entire patrimony, failing to provide her with the necessities of life, and even administering her small dowry in a way that caused her harm. After the Parish Priest received this document, he urged that it be sent to the ecclesiastical court, and questioned both spouses in their presence. Thus, he questioned John: "Your wife says that when she sees you squandering even the smallest things and the value of your possessions..."

[*Latin ed. p. 4*]

4. THE DELAY IN THE DIVORCE proceedings was so rapid that they feared that their possessions would suffer the same fate; therefore, they requested a separation regarding the marriage and possessions. Do you consent to this? To this question, John replied: "Indeed, I consent." Again, the Parish Priest: "Do you renounce all and each of the goods that have come to Lucy after the separation, and those that will come in the future?" "Indeed, most sincerely, I renounce them," replied John. This declaration of the man was confirmed by the woman and signed by both spouses, along with the woman's letter, and was sent by the Parish Priest to the Episcopal court. The same Parish Priest, in order to strengthen these matters further, declared that he was prepared to testify under oath, if necessary, that he had seen John standing before him, and that he had informed him of the petition made by his wife; that the grievances exposed by the woman were made known to him; and finally, that this man had not opposed any of these things, but rather had readily consented to the separation of bodies and possessions. With these actions, the Episcopal court, without seeking further information, on November 3, 1865, issued this judgment: "Considering that the aforementioned spouses are already, in fact, separated, and that their union brings with it serious inconveniences; considering that Lucy requests a canonical sentence of separation, and that John consents without any opposition, we declare that there is grounds for hearing the woman's petition; therefore, by our authority, we issue a sentence and decree a separation regarding the marriage and residence between the aforementioned spouses, Lucy and John, declaring them canonically separated, and we remit them to the civil judge for the separation of possessions." This sentence was sent to the Parish Priest, who notified it only to Lucy, who presented it to the civil court to obtain a decree regarding the separation of possessions. It is customary among those peoples that the civil court decides on the separation of possessions as soon as it is established that a canonical sentence of separation has been issued by the ecclesiastical judge, a custom which is certainly not foreign to the sacred canons. In this civil court, John is said to have been informed by his Defender of the sentence issued by the Bishop, and on February 4, 1866, he appealed to the Internuntius, or Delegate for Affairs, of the Holy See residing in that jurisdiction; although, in this case, since there was no Apostolic Nuncio, a

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competent judge was not present to judge the case.

[*Latin ed. p. 5*]

5. SEPARATION'S REQUEST. Meanwhile, John requested letters of separation from his Bishop (1), which the Bishop denied, on the grounds that the judgment concerning the fatal fault had already passed, and also that the thirty days for requesting the letters had elapsed. However, when John insisted through his advocate with the aforementioned official, claiming that he could not be condemned since he had not been summoned nor had the judgment been notified to him, the case was finally brought before the Sacred Congregation by the Secretary of State (1). If any of our readers are not versed in canon law, they may not know what these letters of separation are that are requested from the judge by whom someone has been judged. The letters, called "apostoli" from the Greek word *apollyo*, meaning "to release," are in Latin called *dimissoriae*. They are nothing other than letters from the judge who rendered the sentence, by which the case is referred to the judge to whom the appeal has been made. According to the old civil law, such letters contained the names of the person who had appealed, against whom, and from what judgment the appeal was made; these matters are discussed in laws 106 ff. concerning significant words, I. un. ff. concerning letters of dismissal, I. 1. end, I. 5 % last ff. concerning appeals, I. 9 concerning the right of appeal. This term, with its legal value, was introduced into canon law. Gratian, in his Decretum, canon 31, chapter 2, question 6, presented the formula for the letters in these words: "I, the Bishop of the Holy Church of Bologna, release you, the priest Roland, a chaplain of Saint Apollinaris, from the jurisdiction of my judgment, to the Apostolic See, which you have appealed to, by these letters." Such letters were to be given and requested within the prescribed time (which varied depending on the circumstances), so that the one who had appealed would not appear to have abandoned the appeal; see chapter 6 concerning appeals, in 6, Clementine, 2 ibid. If you inquire about the legal practice concerning these letters among the authors and tribunals, you will find great confusion. See Lancellotti, *De Attentatis*, p. 2, chapter 13, concerning the letters when the time for requesting them is pending; also, Cardinal De Luca, *De Iudiciis*, discourse 37, although this author does not expressly mention the letters. Briefly, Devoti, in his golden canonical *Institutiones*, has clarified this matter in volume 3, title 15, concerning appeals, and, after discussing the concept of these letters in several chapters, concludes: "But now, almost no one uses these letters in court, and instead, the appeal is entered in the records within ten days of the judgment being pronounced or notified, by inserting it in the case file before the judge who rendered the judgment, so that both the judge and the victor may know that the appeal has been filed within the proper time; and so that the time for pursuing the appeal before the higher judge is one year, and, for a just cause, even two years." These

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are the general rules of both canon and civil law. Also, see the case I cited in Volume IV, page 353, and another on page 378 in the same Volume IV.

[*Latin ed. p. 6*]

6. REGARDING THE SEPARATION OF THE MARRIED COUPLE. Since it was established, based on the report of the Bishop and the testimony of the Parish Priest, that the sentence of separation had not been duly announced to John, a Rescript was issued on August 19, 1867: In the case under consideration, there is grounds for appeal before the proper court. Following this Rescript, the Bishop immediately forwarded the matter to the Sacred Congregation of the Council, from which another decree was issued: It is to be placed on file and notified to the Promoter of Justice of the Holy See, so that he may urge the parties to proceed with their rights before the Eighth Congregation, and to inform them of the outcome. By order of this decree, John declared that, apart from what he had already presented to the Promoter of Justice, he had nothing further to present. Lucy, however, submitted a new petition, in which, setting forth the reasons, she concluded: To condemn me to live with him (John) is the same as condemning me to death, for I abhor him with invincible aversion. The case was therefore presented before the Sacred Congregation under the following questions. A summary of the discussion. Since two questions were raised, one concerning the legal procedure and the other concerning the merits of the case, certain observations were made ex officio regarding both questions. OBSERVATIONS CONCERNING THE MAN, REGARDING THE FIRST QUESTION. It was considered in favor of John that certain causes pertaining to the separation of the married couple can be addressed in a manner that is summarized and without the formality of a full judicial proceeding, as stated in Clement. 2, in the book *De Iudiciis*, where the following is found from Clement V., from the Council of Vienne: Those who desire to restrict the prolonged proceedings of lawsuits (which experience sometimes shows to arise from a subtle observance of the rules of judicial procedure) in the following cases, we decree that in cases concerning elections... or any ecclesiastical benefices or tithes... as well as concerning marriages or usury, and those matters which touch upon them in any way, may henceforth be handled simply and directly, and without the formality of a judicial proceeding. However, it is understood that in summary proceedings, those things which are required by positive law alone may be omitted, but not those things which are necessary for the definition of the case according to natural law.

[*Latin ed. p. 7*]

SEPARATIONIS TORI 7. And these are, as the same Pontiff states in Ciernen: Often, concerning the Word, he declares, "But the Judge does not shorten the case in this way, lest necessary proofs and legitimate defenses

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be admitted. Rather, he pronounces the definitive judgment, standing or sitting, with the parties present, even if they are not peremptorily summoned." Indeed, all these essential elements have been neglected in the present case: no form of judgment was observed, and the judgment was pronounced without the parties being present. It is true that the spouses were present before the parish priest and were examined, as we have said, concerning the separation, but no mention was made of holding a judgment, nor was a formal sentence of divorce pronounced; rather, from what was done and written by the parish priest, it appears that the same parish priest had previously sought to reconcile the spouses; but afterwards, he seemed to have nothing before his eyes other than obtaining the husband's consent to the separation, without inquiring into the causes that would warrant a formal divorce, without summoning witnesses, without hearing them, without administering an oath to the parties, so that everything seemed to consist solely of the simple assertion of the parish priest. And concerning the very consent to the separation, which the parish priest testified that John had expressed before him, John explained in a pitiable letter: that he had not been directly asked by the parish priest for his consent to the separation, but that a certain vague discussion had been held about a voluntary separation; and that he could confirm this with his oath. Nor had the judgment, issued by the Curia in this unknown case, ever been notified to John. It is true, as the Bishop testified, that in that diocese, it is customary to send the sentence of divorce to the parish priest, so that the parish priest may deliver it to the spouse who may use it in the civil court, which must decide on the separation of property; but this custom should not be considered, since it does not seem reasonable: for it concerns the taking away of a right of the spouse, which is derived from a validly entered marriage; and no one should be deprived of their legitimate rights without being heard and without knowledge. THOSE THINGS WHICH, THROUGH FEAR OF THE SENTENCE, WERE OVERLOOKED. But it was considered that John, after what had been done before the parish priest, could not have remained ignorant of his cause: which the parish priest himself observed, who did not fail to express his admiration to the Bishop.

[*Latin ed. p. 8*]

8. THE ADVOCATE reported this: "I spent half an hour explaining to him, with the clearest reasoning and the best faith, the requests of his wife. Indeed, the matter concerned a simple thing... Only so much time is needed to understand what separation of body and goods means? I spoke to him in clear terms, stating that the matter of the separation of the bodies must be presented to the Bishop... I read aloud the document which John willingly signed, so that as I read it, I seemed almost to linger over each letter before his very eyes. And now he dares to say that I deceived him! These words of the Parish Priest clearly attest not only that his dignity and his standing

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with the Bishop have been approved, but also that the very document of declaration signed by John: and it should not be considered that John's assertions are to be valued, since they were brought to light at the same time that he surrendered himself entirely to lawyers. Furthermore, it was not necessary to inquire about the causes of the divorce or to gather evidence, since it was already well known that John had abandoned his wife and had been living separately from her for a decade: and if it was to be said that this was due to a serious disagreement, the signed declaration itself provided evidence of it. However, if the judgment is flawed, as the Bishop stated, it must be noted that the institutions of the ecclesiastical tribunal cannot be observed in that diocese, according to the circumstances of time and place. This concerns the incident in question, which relates to the form of the judgment. WHAT HAS BEEN OBSERVED REGARDING THE MERIT OF THE CASE FOR THE WOMAN. It is clear that there must be a perpetual and individual habit of life between spouses; therefore, it is hateful to dissolve the individuality of the marital union; and this cannot be done unless there are serious reasons. Furthermore, according to the testimony of Lucy, there were such serious reasons for granting the divorce, namely, the husband's cruelty, his vice of drunkenness, the squandering of his property, and his impotence, so that Lucy affirmed that she could no longer live with John if he remained separated from her. Moreover, as the authorities agree, whenever a husband unjustly inflicts cruelty on his wife, it is sufficient to consider such cruelty as sufficient grounds for granting a permanent separation; as Cosci de separator. coniug. c. 6 n. 23 says: "If the husband, without just cause..."

[*Latin ed. p. 9*]

SEPARATIONIS TORI 9. "From a slight cause, the husband frequently ill-treats his wife, and it is a most evident error to believe that such ill-treatment, if not the most atrocious, ought to be tolerated, except for the reason that it is permissible for a husband to correct his wife with light blows, so that she may be reformed; for when the just cause is removed, the necessity of correction ceases. Nor is amendment to be hoped for through correction from an error or fault not committed; therefore, in this case, whether the ill-treatment has been slight or severe, all reason suggests that it should lead to separation." To this, the Sacred Roman Council agrees, *decis. 248, n. 9, p. 6, Recent*. Among such acts of cruelty are to be considered injuries, even verbal ones, which carry with them a certain defamation, and which shake the spirit of an honest and pious woman. These may become more serious, especially when the husband continually refuses to provide Lucy with the necessary sustenance; and also when the husband repeatedly abandons her, which abandonment has lasted for as long as ten years. These are very serious arguments for implacable hatred; and such an abandonment, which is done according to his own nature, is considered

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contrary to good morals, *I. 5, C. de Inst. et subst., Cap. De Divortiis*. To these, one must add the husband's habitual drunkenness, which, as a cause for temporary separation, is at least admitted, *Sanchez de Matr. I. 10, disp. 18, n. 18; Cosci, loc. cit., c. 17, n. 28*. Finally, Lucy insisted especially on the fact that John had almost squandered his patrimony by frequenting taverns, and that he intended to squander his wife's dowry. In this regard, she cited the authority of *Clericati de Sacr. Matr., dec. 39, n. 18; Card. de Laurea, disp. 42, n. 272*, who, among the acts of cruelty, mentions the squandering and dissipation of assets, writing: "It seems that *Quarto* can be reduced to cruelty, if a spouse wishes to dissipate all or the greater part of the assets, and actually begins to do so, for this is a heavy burden for the innocent to bear." However, since all of these things were more or less confirmed, either by the testimony of the parish priest, or by the judicial witnesses brought in, or by the fact of the ten-year abandonment, and there was no hope that the husband would cease this behavior, as years of experience had shown, Lucy concluded that there was a place for a canonically sanctioned separation.

[*Latin ed. p. 10*]

10. OF THE CAUSES FOR SEPARATION, AND THOSE WHICH ARE ADVERSE TO THE MAN. John argued that a just and legitimate cause must be present to warrant granting a separation, such as acts of cruelty or implacable hatred, or any other grave matter, by which the minds of the spouses become so inflamed that the life of one of them is seriously endangered; and that this must be demonstrated by rigorous and evident proof. Furthermore, if cruelty is alleged as the cause, it cannot be any cruelty whatsoever, but only that which arises from multiple and repeated acts, and indeed atrocious ones; so that neither several minor acts, nor one single most atrocious act, suffice. Again, if implacable hatred between the spouses is alleged, it must be examined whether the spouses are truly consumed by hatred, from whence it arises, whether it is of a permanent nature, and whether there is any hope of reconciliation. Finally, if the greatest danger to the life of one of the spouses is alleged, it must be carefully considered whether this consists of mere fear or suspicion. The Holy Rota, in the matter of a separation, on June 6, 1766, before the Counts, stated the above. But, John argued, if the matter of cruelty is discussed, first, these acts were not demonstrated, since the entire case rested on the assertion of Lucy, and the Parochus should not be believed, first, because there was only one witness, and second, because he was suspected in this matter; second, the acts of cruelty alleged by Lucy cannot be considered as acts of cruelty, because they were minor acts and momentary, or they may have arisen from a first impulse, or from great emotional turmoil, or because of the wife's fault, disobedience, and stubbornness, from which it cannot be argued that there is a habit of cruelty, which habit is necessary for granting a separation. The

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Rota in Signina granted a separation, on June 4, 1790, § 5, before Malvasia. The same must be considered regarding injurious words, which, moreover, were uttered by Lucy with so many insults: indeed, it is the case with almost all spouses, that if they were to be separated because of harmless and somewhat uncivil words, it would be contrary to the disposition of the text in Chapter Letters, concerning bestial spoliation; therefore, the Holy Congregation of the Council denied a separation in a more serious case in Fermo, on May 16, 1789.

[*Latin ed. p. 11*]

SEPARATIONIS TORI Jl To exclude the existence of these causes, John presented the testimony of the local magistrate, who, among other things, testified: "As far as I know, John is a peaceful man and incapable of doing evil to anyone." He also presented the testimony of four inhabitants of the same place, who testified that John had never acted with brutality towards his wife, nor had he committed any uncivil injuries, nor had he ever treated her badly. Furthermore, while witnesses testified about injuries and cruelties inflicted, those who deny them should be preferred; therefore, the Sacred Roman Rota, in Valencia, granted the separation on February 12, 1751, before Elephantutio. John was careful to remove hatred from himself, both through his Christian morals, through the testimonies presented, and finally, through his very effort to restore his wife to marital duties. Regarding negligence in managing and conducting domestic affairs, if such negligence were present, it could not, in any way, be considered among the legitimate causes for separation, since this negligence could be remedied through legitimate legal remedies, such as bringing an action for the return of the dowry before a civil tribunal. Nor should the reason for the separation be considered to be the mutual consent, whether given in a state of passion or revoked during the litigation. Therefore, since the causes for separation were lacking, the court's judgment should be overturned. Doubts. I. "Whether a legitimate appeal exists in this case." II. "Whether the judgment of the diocesan court should be confirmed or overturned in this case." RESPONSE. The Most Holy Congregation of the Council, after discussing the case on July 31, 1869, decided: Regarding I and II, there is a place for separation *tori*. From which it is gathered: I. That several causes can be treated in ecclesiastical courts, not solemnly, but summarily. II. That causes treated summarily do not require all the forms prescribed by mere human law for the ordinary and solemn order of judgment; but they do require certain forms.

[*Latin ed. p. 12*]

I. The grounds for separation, which are deemed necessary or appropriate by reason of justice or equity, are to be considered (1).

II. Justice and equity demand that those who are to be judged be sum-

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moned to the judgment, so that they may know that their case is to be judged, and that if they wish, they may bring forth witnesses in their defense, and so that they may not be able to ignore the judgment that is rendered from it.

III. If these essential formalities are not observed, even if the judgment rendered is just, it will not have the force of a judgment, and therefore those subject to it will not be able to fulfill the legal obligations that a properly rendered judgment entails (2).

IV. Furthermore, it is not to be decreed a full or perpetual marital separation, except when there are grave and just causes that persuade that such a separation should be decreed.

V. Although adultery of one of the spouses is the principal cause in law, which gives the innocent spouse the right to perpetually repel the adulterer, another cause may follow in imitation of this, which is based on prolonged and injurious abandonment.

VI. Just as adultery gravely violates the conjugal bond, which demands a constant and shared life, so too does prolonged and injurious abandonment.

VII. Even more so, if the causes that have led to such abandonment are already, in themselves, suitable for suggesting a canonical separation, and appear to be of a permanent nature.

VIII. In these circumstances, if the innocent spouse requests a perpetual separation, it should be decreed by the judge (3).

(1) See Appendix I.

(2) In the present case, it is very likely that John knew of the judgment rendered before Lucy presented it to the civil court to obtain a decree of separation of property; however, if John had this knowledge from a source other than a judicial proceeding, it would not harm him; therefore, the prescribed days for appeal, which we call fatal, would not apply to him. These days could have begun to run from the day he was required to know of the judgment from the civil court; but even if they could have begun then, if those days passed without appeal, John could have challenged the judgment on the grounds of nullity: because a judicial judgment had been rendered in which he had not been summoned and heard in court. He was indeed summoned by the parish priest, who, perhaps by order of the court, brought John and questioned him by the priest, but these were not judicial acts.

(3) Compare another case of this kind, which I cited in Vol. TL, p. 123 and following.

[*Latin ed. p. 13*]

SUSPENSION! On June 22, 1863. Summary of the case. Bernard, a parish priest in the town of N. in the diocese of N., was suspended by his own

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Bishop from his office as parish priest on April 29, 1861; and subsequently, by a Decree of the Vicar General on November 27 of the same year, he was suspended from Divine functions, for reasons "not expressly stated": a Decree which was later ratified by the Bishop. Burdened by these suspensions, Bernard presented fervent petitions to the Holy See, earnestly requesting: 1° that the Decree issued by the Bishop in April be revoked; 2° that the Vicar General be compelled to bring forward the reasons for the suspension, based on informed conscience; and that he himself, the petitioner, be admitted to defend himself; 3° that the Bishop be invited to transmit the proceedings. After the usual communication to the Bishop for information and a vote, and a request that he report on the petitioner's age, morals, and knowledge, the reasons for the suspension, and that he transmit relevant documents, the Bishop responded: that Bernard is of the age of 50 years and belongs to a respectable family; that he had received Holy Orders in another diocese and was admitted to hear confessions; for this reason, he had received him into his own diocese as an assistant to his uncle, the parish priest of the same town; and he had also appointed him as the parish economist. He stated that he had nothing against the parish priest's morals; indeed, he had reasons to believe that Bernard was endowed with good morals, since his adversaries had not been able to accuse him of immoral conduct. However, he considered that Bernard lacked the necessary knowledge in moral theology, and was therefore less suitable for instruction. He further stated that he and the synodal examiners had approved Bernard's examination and his suitability for the parish; nevertheless, the parish had been assigned to him because it was located on a mountaintop and had meager revenues, and because no others were available, and because of the illness of his aforementioned uncle and his exercise of the office of economist for almost two years. Regarding the reasons for the suspension, he stated that they were those which the Syndic and the Municipality of the same town had presented to the court.

[*Latin ed. p. 14*]

14. A General Vicar had been sent to the sixth parish to summarily examine the witnesses and hear the defenses of the parish priest. After these matters were concluded, he suspended the priest from the care of souls, but not from the benefits and revenues, for the following reasons: 1° That, except for the seasons of Lent and Advent, for a period of one hundred years, which the priest himself had affirmed, he had omitted catechetical instruction; 2° That he had neglected the care of the sick; 3° That he had neglected the administration and the interests of the church; 4° That he was not pleasing to the people because of his harsh nature. He refused to proceed with a regular process, which would require a new demonstration of his suitability for governing the parish, so that he might be certain about this matter. Regarding the accusations made against him, some were ad-

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mitted, and others were to be investigated, but it was believed that, due to the long suspension, the priest had already suffered the penalty for these accusations. Under these circumstances, it was considered most merciful to act with him by imposing spiritual exercises for ten or fifteen days before restoring him to his former position, provided that the priest himself agreed to undergo a new examination regarding his moral conduct after three or four months, and to pay a small sum to the treasurer according to the synodal regulations. The priest, in his letter, refused to do all of these things. Later, however, he showed himself willing to agree, except for the new examination, which he completely refused. Then, the Vicar suspended him from celebrating Mass, but stated that he would gladly reinstate the priest in all things, if he had more certain evidence of his sufficient suitability. This was communicated by the Bishop, who also sent the records of the completed proceedings regarding the parish and the tables of the process, which, however, had not yet been brought to a conclusion.

A Synopsis of the DEFENSE of the Parish Priest. The parish priest, through his Defender, presented a letter that the same Bishop had written to him, in which he was urged to accept the administration of his parish as its treasurer. In this letter, the Bishop insisted strongly that he accept this position, especially because the people loved Bernard and followed him.

[*Latin ed. p. 15*]

SUSPENSION! He knew that not all were suited to govern parishes, whereas he himself was suitable. Furthermore, the Bishop had promised that he would support him, not only as an economist, but as a parish priest; which he could do, since there were no others available. Another letter from the Bishop of another diocese likewise testified to the piety and suitable knowledge of Bernard for the governance of the people, praising him in many ways. Therefore, the Defender noted that Bernard had accepted the parish and had persevered in his ministry for ten years without any complaint from the Bishop. After these remarks, the Defender proceeded to the three already mentioned charges: namely, 1° negligence in catechesis; 2° grave neglect in assisting the sick; 3° imprudent administration of goods; and he pointed out that today a fourth reason was being added by the Bishop, namely, the aversion of the people; however, he did not attempt to prove this in any way in the procedural records or in any other documents. Regarding the first charge, the Defender noted that even if the parish priest had been negligent, according to the regulations of Trent, chapter 2 ss. 5 de Refor., he should have been warned beforehand by the Ordinary, in which it is written: "Archpriests also, and Rectors, and all those who hold parish churches in any way, whether by themselves or through others who are suitable, if they are legitimately hindered, on Sundays and on solemn feasts at least, shall instruct the people entrusted to them with salutary words, teaching them what all must know for their

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salvation, and announcing to them briefly and easily the vices that they should avoid, and the virtues that they should follow, so that they may escape eternal punishment and attain heavenly glory. But if anyone of them neglects to do this... the provident solicitude of the Bishops will not fail, lest it be fulfilled: The children asked for bread, and there was none to break to them. Therefore, if anyone of them, after being warned by the Bishop, fails to perform his duty for a period of three months, he shall be compelled by ecclesiastical censures or by other means at the discretion of the Bishop, so that even, if he deems it expedient, a just compensation may be paid from the fruits of the benefice to another who will perform it, until the principal himself repents and fulfills his office." Moreover, the parish priest had performed his duties according to the custom that prevailed in that town.

[*Latin ed. p. 16*]

16. Concerning the suspension regarding his negligence in administering the sacraments to the sick in the parish, the Defender noted that the accusers had presented five examples, one of which concerned a woman who frequently received Holy Communion out of devotion, and who was still alive, to whom the parish priest had refused to administer it; regarding another woman, they did not even wish to bring her up in the proceedings; and finally, three other examples concerned parishioners who had died either from apoplexy or from sudden death. Therefore, there was no basis for any punishment in this accusation, as negligence or fault was lacking. He also argued that a third part of the accusation was false; that if there were suspicions of bad administration, there should have been a presentation of accounts; but all of this was trivial and not contested in the proceedings, and the Bishop himself had done little, having asked for nothing other than a new example of suitability. Regarding the second penalty of suspension, imposed by the Vicar General based on informed conscience, it could rightly be doubted whether the Vicar General had the right to impose such a suspension, and all other things that could be said about such an extraordinary mode of suspension were omitted. He noted that to inflict such a punishment, a very serious crime must be present. Benedict XIV, in *Synodalis*, I, 10, chapter 1, number 1, and 5, and Coscia in *Addit.* 3 ad vot. de sponsal. 266, wrote: "If we are finally speaking of the penalty of suspension from divine duties or from office, this is certainly not the 'Betonica' to be used in all ointments, as some Ordinaries believe, who in all cases and for any reason abuse censures, and which, although they should be carefully considered, become contemptible due to frequent use, or rather, abuse, but only if the Ordinary has committed a mortal fault in threatening or imposing them." Also, Monacella in *Formular*, volume 3, in the Preface, number 9, wrote: "However, it is true that this censure is not incurred unless due to one's own fault, and that fault must be mortal, as

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is commonly imposed even by a secular judge... because since the punishment must be proportionate to the offense or fault, and suspensions from office, benefice, or order are serious, they require a serious fault." But the cause of the suspension, which had been presented in this case, consisted of the fact that the parish priest had refused to perform the spiritual exercises ordered to him, because he had refused to undergo a new examination; but these spiritual exercises, as a punishment, were grave and just.

[*Latin ed. p. 17*]

Lacking a sufficient reason, it could not be enjoined: on this matter, Cosci, in the aforementioned work, writes: "If we are speaking of spiritual exercises, these cannot be imposed as a penance without the most just and serious reason; for although performing spiritual exercises out of devotion is a most praiseworthy act, if they are performed as a penance, the subject is so burdened that he is dishonored." Even more so, the parish priest was not to be penalized with suspensions on account of a new examination; for, even if a parish priest is unskilled, yet honest, a coadjutor must be appointed to him, according to the express sanction of the Council of Trent, Session 21, chapter 6, on Reform, in which it was decreed: "Because uneducated and unskilled rectors of parish churches are less suited for the sacred offices... Bishops may also, as delegates of the Apostolic See, appoint coadjutors or vicars for a time to such uneducated and unskilled persons, and assign them a portion of the fruits for a sufficient livelihood, or otherwise provide for them, removing any appellation." However, a parish priest can only be compelled by the bishop to undergo a new examination if there is a reasonable cause, especially if the bishop himself has previously judged him to be suitable, as taught by Benedict XIV in his work *De Synodo*, I, 13, chapter 9, paragraph 21, where he wrote: "It often happens that some parish priests, over time, are found to be uneducated and objectionable, because, after having received charge of souls, they completely abandon the exercise of study. Furthermore, if there are probable and serious evidence of their incompetence and ignorance, then it will be within the power of the bishop, even outside of a visitation, to summon such parish priests for examination, even if they have previously been approved by the same bishop in a prior examination." Thus, the Sacred Congregation responded to the Bishop of Pamplona on September 22, 1668. Furthermore, Ferraris, in *Bibliotheca Canonica*, under the word "Parochus," article 1, paragraph 25, wrote: "That a bishop may re-examine parish priests who have already been examined and approved by himself, if, based on subsequent and very strong evidence, he truly and probably judges them to be uneducated and insufficient, because the necessary knowledge is lacking in them; for the opinion of insufficiency is like a certain accusation or denunciation." Also, Pignatelli, volume 1, Consilia, 133, paragraph 7, writes: "It must be held as certain that a bishop can summon parish priests for examination when the

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defect in their knowledge is known, provided that..."

[*Latin ed. p. 18*]

18. SUSPENSION. "And the reputation of their incompetence or error in the administration of the sacraments precedes them. For then, error and reputation are like accusers..." Furthermore, it was stated that Saint Pius V, in the Constitution *Romani Pontificis*, had established that a parish priest should not be examined again by the same bishop. However, the Defender argued that the sole argument for incompetence presented in the present case was the very competition of the year 1851, from which the bishop considered the parish priest to be insufficiently qualified; but the records of the competition showed that the parish priest demonstrated his suitability; moreover, in a small town where Bernard had long fulfilled the duties of coadjutor and administrator with great praise from the bishop himself, it was clear that he had accepted the care of souls not only by being elected and approved, but also truly compelled by the aforementioned letter. Therefore, he argued, this was precisely the case in which the lesser power belonged to the bishop, and more urgent indications and common defamation should concur, according to the opinion of Benedict XIV, *Instit. eccles.* 9, n. 16, of which, however, not a trace appeared in the proceedings. On the contrary, he maintained, from numerous witnesses and even prominent authorities, it was proven that the parish priest had maintained harmony and benevolence among the parishioners, and that he had acted with skill and diligence: therefore, the assessment of his merits should be that of his parishioners, who were diligently following the pastor's example.

THINGS REPROVED FROM OFFICE. From the opposite perspective, it was observed that the causes of the suspension were not to be considered so minor that Bernard did not deserve such a punishment. Indeed, it is clear that parish priests are bound to teach the rudiments of the Christian religion to children and uneducated people, as Benedict XIV also taught in the Constitution. Moreover, they should also impart catechesis to the people on feast days, according to the alleged Decree of the Council of Trent, Session 5, chapter 2, on reforms. However, according to the testimony of the bishop, although the parish priest was specially obligated to this duty by a diocesan synod, and had been repeatedly urged for four years, he had only fulfilled this duty during Advent and Lent: therefore, the bishop was justified in punishing the stubborn parish priest with the first suspension. Nor could the parish priest appeal to the custom he invoked, which had no force in this matter against the express sanction of the Council of Trent, the diocesan synod, and the repeated injunctions of the bishop.

[*Latin ed. p. 19*]

19. These reasons, indeed, are increased if one considers the negligence

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of the same Parish Priest, both in the administration of the sacraments and in the management of the Church's revenues. Although the Bishop himself suspects some exaggeration in these matters, not everything is necessarily false; indeed, concerning the administration of the sacraments, the same Bishop has stated that it is certain that, outside of the Paschal season, the Parish Priest has always refused to bring the Holy Eucharist to the sick who requested it for devotion. As for the second suspension, which was declared based on informed conscience, it was observed to be broad, in order to allow for the persistence with which the Parish Priest refused to undergo a new examination; therefore, the question here is whether the Parish Priest can be subjected to a new examination. On this matter, the Doctors distinguish whether the Parish Priest wishes to be examined by the same Bishop who had already approved him, or by his successor. If it concerns a successor Bishop, he can examine the Parish Priest solely for the sake of his own conscience, as stated by *S. Rotam* in decision 258, recent, n. 3, page 19, volume 11, and by Benedict XIV in *Instit. eccl.*, 9, n. 16. The same Bishop can also perform this examination, both during a visitation and outside of it, as taught by Barbosa in *Summ. Apost. decis.*, under the word "examinare," n. 11; and also by the Holy Congregation in *Placentina*, August 28, 1628. Nevertheless, Monacell, volume 1, title 10, formula 15, n. 3, seems to rightly caution against Bishops using this power, except with great caution, and only after prior defamation or suspicion of incompetence. For a Parish Priest, once approved, is considered to be in possession of his suitability, and therefore should not be disturbed without cause, nor should his reputation be called into question. However, if the matter concerns a Bishop who has approved the Parish Priest, it has been decreed by St. Pius V in the *Romani Pontificis Constitution* that he should not examine the Parish Priest again; however, this should be understood not absolutely, but with regard to a Parish Priest against whom there is no pressing suspicion of incompetence, in which case the Holy See has defined that the Bishop cannot demand a new examination, as stated by the Sacred Congregation in *Pampilonen*, September 22, 1668 (lib. Decr. 26, page 108), from which resolution, Benedict XIV, in the aforementioned passage, has stated that merely satisfying one's conscience is not sufficient. Otherwise, the Doctors commonly teach that the same Bishop can require the Parish Priest to undergo a new examination whenever there are strong indications of his incompetence, as stated by Monacell, in the aforementioned passage, n. 12. But what...

[*Latin ed. p. 20*]

20. The following are indicators that may justify the suspension of a priest, as stated in Pignatelli, Vol. 1, Canon 133, No. 7: namely, if the lack of knowledge is known, and if there is a reputation of incompetence, or if the Bishop can reasonably conclude that the parish priest has not devoted him-

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self to study, and therefore may have lost his previous knowledge. It is not necessary to present legally sworn witnesses to prove these indicators, but it is sufficient for the Bishop to be informed of such incompetence, either because it has been reported to him by trustworthy individuals, or from the words and actions of the parish priest, or from other circumstances that lead the Bishop to form a serious suspicion of incompetence, as clearly stated by the Holy General Council in another document from Pamplona, January 15, 1667, Lib. Decr. 25, p. 298, in which the Sacred Congregation, responding to the third question, considered it unnecessary to require judicial proof of incompetence in order to conduct such an examination. Also, in the document "Leggenda," December 15, 1725, in which Pope Benedict XIV, praising the observance of ancient decrees, in his work "De Synod. Dioeces," Vol. 13, Chapter 9, No. 21, clearly explains that these decrees should be understood as follows: a prudent Bishop should not proceed inconsiderately in such a serious matter; he should not readily give credence to the false voices of the unlearned who clamor that a parish priest is incompetent and unfit to administer the parish; and if there are credible reports and serious evidence of his incompetence and ignorance, then the Bishop has the power, even without a formal investigation, to summon such a parish priest for examination, even if he had previously been approved by the same Bishop in a previous examination. This conclusion is further supported by Pignatelli, in the aforementioned passage, based on the authority granted to Bishops by the Fathers of Trent in Session 21, Chapter 6, namely, the power to appoint assistants to inexperienced rectors. For if a new examination were not conducted, either assistants would never be appointed, or injustice would be done to those rectors who may be capable and competent. Given these legal precedents, the Bishop can demonstrate Bernard's incompetence based on the very fact of his approval, since he could only have been appointed to the parish out of necessity and due to the lack of other suitable candidates. In this specific case, the Bishop is obligated to inquire, during his visit, about the proper administration of the sacraments, and to conduct an examination if necessary, in order to obtain such information, as taught by Pigliateli, in the aforementioned passage, No. 18. And in such a case, one should not expect the Bishop to present serious evidence.

[*Latin ed. p. 21*]

21. SUSPENSIONS: Ignorance is no excuse, but the same must be inquired into by himself concerning necessary knowledge. But in the case at hand, witnesses from the town reported that Bernard's sermons reconciled sleep... indeed, the faithful who heard his sermons would lose faith in the explanation of the Apostles' Creed if they had to listen to the Paroch's words, and they added that they heard the same things every year about the Our Father and the Apostles' Creed, using the same words. This

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was confirmed by two other townspeople, one of whom testified that the Paroch stirred up laughter, since he always said the same thing; the other, on the other hand, said that he rather instilled confusion in the minds of the people than enlightenment. Therefore, it seemed clear that serious circumstances were present in the case of the Paroch's incompetence, for which the Bishop could justly demand that he undergo a new examination. However, in favor of the Paroch, such testimonies seemed to be sufficiently refuted by the eminent testimony of another Bishop from another diocese, of whom I mentioned above, by which this Prelate affirmed: that he had heard his sermons on Sundays and that they had greatly satisfied him. "And how do the Decrees of the Episcopal Curia of April 29, 1871, and November 27 of the same year apply in this case?"

RESPONSE. — The Holy Congregation of the Council, having knowledge of the case on June 6, 1863, judged that: "According to the mind of the decree, the Bishop must write to the Paroch for absolution and rehabilitation, after ten days of spiritual exercises in a place designated by the same Bishop." From WHICH WE GATHER: I. That suspension, whether from office or from the exercise of the sacred order, since it is a serious punishment and gravely damages honor, should not be imposed except rarely and for more serious and mortal sins. II. That other, more prudent means should be employed by the Judge before resorting to the sword of censure. III. That the cause of suspension could be the Paroch's long-standing negligence in instructing children and the uninitiated in the rudiments of the faith, and in the administration of the sacraments, despite the paternal admonitions of the Bishop.

[*Latin ed. p. 22*]

IV. Furthermore, you should understand that Parish Priests, once approved by the Bishop, cannot be compelled by the same Bishop to undergo a new examination, unless they have demonstrated arguments of undue incompetence. V. Nor can every instance of incompetence be a reason to demand a new examination; but only that incompetence which is utterly incompatible with the people whom the Parish Priest, otherwise blameless, governs. VI. For, different levels of expertise are required in a Parish Priest who governs a simple populace, and in one who presides over a cultured and discerning people. VII. In the present matter, lacking arguments of undue incompetence, the Parish Priest could not have been compelled by the same Bishop to undergo a new examination; and it was wrongly used by the Vicarius Generalis, with excessive discretion, this monarchical power, which should be employed only in urgent cases and with the utmost circumspection by the Bishops themselves, to inflict censures, which are called "ex informata conscientia" (1). (1) Before the Holy See, censures inflicted with knowledge of the cause and censures inflicted without knowledge of the cause are held in equal regard; for in either case, the Holy See

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admits defenses, which should never be denied to anyone, and, if the cause lacks validity, it orders that those burdened by the censures be absolved; and if the causes appear openly unjust, it also declares the censures to be invalid, although this second course of action is rarer. In the present matter, the second suspension was said to be "ex informata conscientia"; but it could scarcely be called that, since the reason for its imposition was evident.

[*Latin ed. p. 23*]

JURISDICTION. July 31, 1869. Summary of the case. John G. donated his property to a certain sacred building in the year 1750, but with the condition that a chaplaincy be established, not one that was endowed, but purely lay, which could be possessed by a layman or even a woman, and that this layman or woman would serve as Rector or simple administrator. This chaplaincy was subjected to the jurisdiction with the following stipulation: as long as John G. lived, he would have the right to appoint a chaplain, Rector, or administrator, who from that moment would be named and appointed by him; namely, Dominic M., his nephew. After John's death, the jurisdiction and administration would pass to Thomas M., his other nephew, and after him to the eldest son of the house M., ad infinitum, through the male line, and if the male line ceased, then to the eldest female, ad infinitum, so that neither would there be any women from the male line, but to the eldest male from the female line, ad infinitum, and in the absence of a male, to the female of the greatest age, ad infinitum. It happened that Thomas M., the second-born male, lacked a male heir, leaving five daughters. The eldest of these daughters was Dominic Cascioni: he retained the chaplaincy as long as he lived. Upon his death, the chaplaincy passed to his son, Pomponius, who died unmarried. Upon Pomponius's death, Victoria Cascioni, his aunt, petitioned the Bishop to add the chaplaincy to her, since she was the eldest among the other women. However, after the Bishop published edicts, so that anyone who had claims would present them within a month, Anthony Galloni appeared, who, as the eldest male descended from the entire female line of the house M., asserted that the chaplaincy belonged to him. Meanwhile, Henrietta Cascioni, the sister of the deceased Pomponius, occupied the assets of the chaplaincy, claiming that the chaplaincy was due to her above all others. The Bishop referred the dispute to the Sacred Congregation of the Council; in the meantime, the assets of the chaplaincy were entrusted to a judicial administrator for management.

[*Latin ed. p. 24*]

A Synopsis of the Dispute Regarding Patronage. Of the three disputants, only two presented their claims before the Sacred Congregation, namely Lawrence Galloni and Henrietta Cascioni.

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THE RIGHTS OF LAWRENCE. Anthony recalled the words of the Founder, as previously written: "The patronage and administration shall belong to Thomas M., the other of his grandsons, and after him to the eldest male of the house M., perpetually, through the male line; and failing the male line entirely, so that neither are there any females of the male line, then to the eldest male of the female line, perpetually; and failing a male, to the eldest female." Based on these premises, Lawrence argued that he was the eldest male of the female line; therefore, the chaplaincy belonged to him. He maintained that the Founder intended the eldest female to inherit the patronage in the absence of a male. He rejected the objection raised, that a male of one line could not dispossess a female of another line who was already in possession of the patronage, arguing that this was true only when the Founder had distinguished between different lines; but not when the descendants were collectively called "prelates," meaning males.

THE RIGHTS OF HENRIETTA. Henrietta claimed to be the sister of the deceased chaplain. She argued that the Founder had prescribed the order of succession through the following words: "and after him to the eldest male of the house M., perpetually, through the male line; and failing the male line entirely,... to the eldest male of the female line, perpetually, and failing a male, to the eldest female, etc." Furthermore, she stated that when the eldest male was summoned, the entire line of the eldest male was summoned, which consisted of his brothers and sisters; and that this same line would exclude all others until it ceased to exist, as decided by the Sacred Rota in Decree 451, paragraph 8, part 19, recent. However, Henrietta maintained that she belonged to the line of the eldest male who had possessed the chaplaincy; therefore, the patronage belonged to her, and she had inherited the rights and position of the eldest male, according to what the Sacred Rota had generally taught. She further emphasized that he who had preferred the eldest male should be considered to have also preferred his posterity; and that patronage or a legacy,

[*Latin ed. p. 25*]

JURISDICTION: Once a person has entered the preferred line, they could not exit from it, unless it had been completely extinguished; which, indeed, was further confirmed by the fact that the aforementioned Pomponius retained the chaplaincy, although others, older and closer to Thomas, existed in other female lines, who nevertheless did not dare to oppose Pomponius. Therefore, Henrica concluded that her position in the jurisdiction was to be maintained, since no one was present in that line who was older and who was also the heir of her brother, who was the last-born firstborn. After considering these and other matters extensively, the following question was to be resolved: "Whether and by whose favor there is room for the admission or maintenance [of a chaplaincy] in this case."

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RESOLUTION: The Holy Congregation, after discussing the matter in a meeting held on July 31, 1869, decided to respond affirmatively, in favor of Lawrence Galloni.

FROM WHICH WE GATHER:

I. Nothing prevents laypersons or women from possessing chaplaincies if the founder also called women to possess chaplaincies; provided that they are relieved of other obligations.

II. Mere lay chaplaincies are not conferred by the Bishop, but rather, the one who has the right to possess it takes possession of it from themselves, which is usually done with the help of a public Notary; and therefore, these chaplaincies are also often called non-conferring chaplaincies.

III. Whenever the founder first calls to possession the firstborn from any lineage cumulatively indicated, which later divides into several lines, the firstborn from the entire lineage is to be understood to be called, and whoever is found in any line is to be considered.

[*Latin ed. p. 26*]

LEGATES, July 31, 1869. Summary of a case. Mary N., a widow of Bussotti, in her will of the year 1867, appointed a certain Religious family as her heir, and appointed her brother as the executor of the will. Among the other legatees, a certain Clementina Bussotti was found, to whom she left one hundred scudi, with the condition added that, if the testatrix should die before her, those scudi should be spent in as many Masses as could be celebrated in suffrage for the testatrix. However, when the testatrix died and the will was opened, no person was found in the Bussotti family who was named Clementina, nor had there ever been one; however, a man named Clemens was found in that family. Therefore, Clemens contends that the legacy belongs to him, because it was written in the will by mistake, as "Clementina" instead of "Clemens." The executor of the will has presented a petition to the Sacred Congregation of the Holy Office, seeking a resolution of this matter.

OBSERVATIONS FROM THE OFFICE. Since it is fully established in the facts that there was neither, nor is there now, a woman named Clementina in the aforementioned family, it must be examined whether there was an error in the name, and whether it can be established from elsewhere that there is a person, who in the present case is said to be Clemens, who is the intended legatee. We read in I. 4 of the Code of Testaments: "If the testator has erred in the name, or in the given name, or in the surname, or in the nickname, and yet it is not uncertain what he meant, such an error does not affect the truth." Also, in the Institutions, title on Legacies, § 29: "If anyone has erred in the name, surname, given name, or nickname of the legatee, if the person is known, nevertheless the legacy is valid, and the same applies

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to heirs, and it is valid." Furthermore, there are serious indications that an error occurred in writing "Clementina" instead of "Clemens," as evidenced by the petition, and this is also the opinion of the executor of the will, who, as I said, was the testatrix's brother. But the most important point to note is the testimony of a certain Priest, M., who testified that, at the request of the testatrix, he prepared her testamentary will, which she...

[*Latin ed. p. 27*]

27. Postea, legati fuerunt renovati et traditi ad Notarium. In his scriptis, quae adhuc extant, testatur inter legatos fuisse Clementem Bussottil, germanum fratrem mulieris testatricis. RESCRIPTUM. Sacra Congregatio Concilii, die 31 Iulii 1869, cognoscens, censuit respondere: Legatus spectet ad Clementem. Ex QUO COLLIGIS: Nihil interest in legatis errore nominis, si de persona legataria alio modo satis constet (1). (1) Quoddam discrimen opinionum exstat inter Auctores, quando agunt de errore nominum, qui irrepserit in litteris dispensationum matrimonialium. Si quaestio ad normam iuris esset dirimenda, error nominis non vitiat Rescriptum, si persona satis sit aliquo modo determinata ad quam Rescriptum referatur. Sed ad praecavendas fraudes, praxis invaluit in Apostolica Dataria, ut error nominis dicatur vitiare Rescriptum. Non auderem tamen dicere generali ratione eiusmodi errores nullum reddere Rescriptum; nam aliud est dicere per huiusmodi errores irreptos rursus supplicandum novasque litteras expediendas vel delegatum Apostolicum procedere non debere ad executionem horum Rescriptorum; aliud est dicere ideo esse iterum supplicandum novasque litteras expediendas, quia irritum fuit Rescriptum et irrita dispensatio; scimus enim eam esse praxim Datariae Apostolicae, ut si aliquod vitium in rescriptis irrepserit, soleat non raro novas expedire Litteras in forma, quae dicitur, "Perinde valere": sed haec litterarum expeditio non semper supponit nullitatem praecedentium Litterarum: quae ut initae iudicentur, indigerent saepe accurata disquisitionem, ut videmus contingere quando non petatur invalidatio, sed in iudicium deferatur quaestio, utrum Rescriptum fuerit nullum necne. Eiusmodi quaestiones deferri solent ad S. C. C., ad quam etiam ipsa Dataria eas remittit, quando de re contentiosa agitur quaeque exigat specialem disquisitionem. Ut huius rei indicem, exemplum: in quadam dioecesi Hispaniae, nonnullis ab hinc annis, quaedam dubitatio orta fuit, videlicet, an in Litteris Apostolicae Datariae pro dispensationibus matrimonialibus, quae expediuntur in forma pauperum, in quibus addi solet clausula, "dummodo pauperes et miserabiles existant"; si inde oratores pauperes non fuisse detegantur, et cum ipsis iam dispensatum fuerit, valida esset necne dispensatio. Pro nullitate litterarum militabat gravis ratio, saltem gravis apparenter, per vocem illam "dummodo", quae est particula conditionalis; nec non obreptio et subreptio, quae ipso iure irrita reddit Rescripta Gratiae: et altera non minus gravis, quae erat praxis Datariae, quae novas litteras expedit in forma "Perinde valere", quoties id

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contingat: quae quidem litterae videntur supponere nullitatem priorum. Quaestio fuit discussa in S. Congregatione Concilii, sed dirimpta non fuit, et usque adhuc non fuit reproposita. Ego memini in discussione, quae fit a iuvenibus, qui in studio...

[*Latin ed. p. 28*]

FROM THE APOSTOLIC PENITENTIARY, DECREES CONCERNING THE FACULTIES GRANTED TO CONFESSORS FOR THE SIXTH JUBILEE, June 1, 1869. "Although the most ample faculties granted by the apostolic letters of April 11th of the past year by the Most Holy Pope Pius IX are so clearly defined that they leave no room for doubt; nevertheless, due to well-known disturbances in affairs, some doubts have arisen, especially concerning the proper application thereof, which have been presented to this Apostolic Penitentiary for resolution by the Local Ordinaries. Indeed, it would be extremely difficult, and almost impossible, for the Sacred Congregation of the Council to deliberate, before the causes are presented to the Sacred Congregation, if many, and almost all, have already determined the validity of the dispensation, for weighty reasons, namely, because of the nature of that clause, which does not affect the substance of the letters; and it seemed to be established, that the Delegate or Commissary, charged with executing the dispensation, should not proceed if, after investigation, it is discovered that the petitioners are not poor; nor also, because it seemed to be established only to protect the rights of the Curial Datary. Finally, because, when the dispensation is granted not directly by the Holy See, but through a Commissary, who must, through a certain summary judgment, determine whether the petitions are based on truth, an error regarding the lack of poverty would rather be the fault of the Commissary than of the Petitioners; and such Decrees, having a certain resemblance to Decrees of Justice, seem to be subject to the laws of those Decrees; but Decrees of Justice are not considered valid by their own right if obtained through deceit or fraud, as happens in Decrees of Grace; although, by exception, they can be declared invalid; this exception, however, no longer holds when they have been ordered for execution by a Delegate. But I have stated these things only for this reason, that it may be known that it is not always a safe argument, which is often assumed by some, from the practice of confirming letters, to conclude that the letters were invalid, although the practice of the Curia (under whose name the Datary, in particular, operates) has the force of law."

[*Latin ed. p. 29*]

DECLARATIONS: To satisfy the requests of 29 bishops, the Holy Penitentiary deemed it fitting to collect the most important doubts concerning this matter, and their resolutions, into a single document, and to transmit them to the Local Ordinaries, with the benevolent approval of the Most

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Holy Pope, so that all may proceed with a unified doctrine and effort in this matter of such importance; and so that they may instruct confessors, either directly or through chosen ecclesiastical men, with caution and prudence regarding these matters. The doubts and resolutions are as follows:

1. Whether, in virtue of the faculties contained in the Apostolic Letters of April 11th, confessors approved by the Ordinaries can absolve those who carried out or instigated the invasion or rebellion against the temporal dominion of the Holy See, their instigators, adherents, or collaborators, and those who promoted unjust laws, and lent their assistance to the execution of the same (1)?

R. Affirmative, provided that the penitents exhibit true signs of repentance, repair the scandal, or at least are prepared to repair it as soon as possible in the best way they can, and sincerely promise obedience to the Holy See and its mandates. However, public officials, whose office appears to involve some cooperation with actions condemned by the Holy See, or who seem to oppose divine and ecclesiastical laws, shall not be absolved unless they first relinquish their office; and, insofar as they cannot relinquish their office, such officials shall consult the Local Ordinary, who shall decide and provide, according to the Letters of the Holy Penitentiary of July 26, 1867, to which Letters full adherence must be given.

2. Whether, and how, can those ecclesiastics who drafted or signed protests (in Italian, "Indirizzi") against the temporal dominion of the Holy See be absolved by confessors (2)?

R. Affirmative, after a prior, and sufficiently public, retraction, according to the Letters of the Holy Penitentiary of May 28, 1863.

3. Whether those who violate the personal and local ecclesiastical immunity, and the enclosure, can be absolved by confessors (3)?

[*Latin ed. p. 30*]

30 DECLARATIONS.

1. Affirmative, the injury done to the Church is satisfied and repaired in the best possible way.

2. How, and in what manner, can those be absolved who acquired, and possess, ecclesiastical immovable property, alienated from the public domain?

R. Those who hold such property are not to be absolved unless, first, they have delivered to the Ordinary, or to other ecclesiastical officials designated by the Ordinary for this purpose within the diocese, a signed document, or one signed before witnesses, which must be immediately transmitted to the Ordinary and carefully kept in the diocesan chancery or elsewhere, in which they declare that they, their heirs, and successors, subject themselves

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to the following obligations or conditions:

1. To retain said property at the will of the Church, and to obey its commands.

2. To preserve said property, and to use it for a good purpose.

3. To fulfill the pious obligations attached to said property.

4. To contribute from the fruits of said property to pious institutions or places to which they rightfully belong.

5. To warn their heirs and successors by means of the signed document of these obligations, so that they also may know to what they are bound.

3. How, and under what conditions, can those be absolved who acquired ecclesiastical immovable property, and then sold it to others, and who cooperated in contracts concerning said property?

R. Affirmative, provided that the unjustly obtained profit is deposited in the hands of the Ordinary, for the purpose of repairing the damage suffered by the pious institutions, repairing the scandal, warning the new purchasers, and other accomplices, so that they may consult their own conscience, and that each is given the obligation to fulfill the mandates imposed by the Holy See.

4. How, and with what injunctions, can those be absolved who acquired ecclesiastical movable property?

[*Latin ed. p. 31*]

DECLARATIONS.

Affirmative. To those to whom some alms are given, with the favor of the pious of the place, pertaining to goods which are subject to sale, it is permitted to purchase them at a price that is deemed less just by the judgment of the Ordinary or Confessor. However, if the matter concerns things which are not consumed by use, or which can be preserved by being kept, or concerning furnishings and sacred vessels, then the penitents are obligated first to appeal to the Ordinary of the place, so that he may provide for these matters according to the Indult already granted to that Ordinary by the Holy Penitentiary.

7. Whether, and how, can those be absolved who have taken in lease ecclesiastical goods occupied, or alienated from the public domain?

Affirmative. The penitents are obligated first to appeal to the Ordinary of the place, so that he may provide for the goods leased according to the Indult already granted to that Ordinary by the Holy Penitentiary.

8. Whether, and how, can those be absolved who have received ecclesiastical goods in perpetuity from the Government?

Such penitents cannot be absolved unless they first present to the Ordinary of the place, or to other ecclesiastical persons, as mentioned above in question 4, designated by the Ordinary, a signed document in which they

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declare that they and their heirs and successors are subject to the following obligations or conditions:

1. To preserve the same goods, and to use them for a useful purpose.

2. Not to avail themselves of any privilege, or law, whether enacted or to be enacted, concerning the exemption from canonical dues.

3. To retain the said goods at the will of the Church, and to comply with its commands regarding the restitution of those goods.

4. To fulfill the pious obligations that are attached to those goods, to the extent that they are not fulfilled from elsewhere.

5. To pay the annual canonical due in the meantime, and to increase it for the expenses of justice, and according to the estimation of experts, if the stipulated amount in the contract is deemed too small.

6. To inform their heirs and successors of such obligations by a signed document, so that they too may know to what they are bound.

(1) Whether, and how, can those be absolved who have leased ecclesiastical goods detained or alienated by the Government?

(2) Whether, and how, can those be absolved who have received ecclesiastical goods in perpetuity from the Government?

[*Latin ed. p. 32*]

DECLARATIONS

9. Whether, and how, those can be absolved who not only received ecclesiastical goods from the Government in perpetuity, but also redeemed them (1)?

A: Provision must be made for such penitents as stated in the previous response to question number 4.

10. Whether, and how, those can be absolved who have redeemed censi and ecclesiastical rights of a redeemable nature (2)?

A: Affirmative, provided that they first pay to the Ordinary whatever amount remains due from the principal sum to the Government, in order to maintain the benefit of the pious institutions to which the censi or redeemed rights pertain.

11. Whether, and how, those can be absolved who have redeemed canons, tithes, dues, or other ecclesiastical rights of a non-redeemable nature (3)?

A: They can be absolved, provided that they first, as stated in the response to question number 4, sign a document declaring that they and their successors are subject to the following obligations and conditions:

1. To retain the lands so invalidly redeemed for the benefit of the Church, and to obey its commands.

2. To maintain the same lands, and to carry on a useful activity therein.

3. To provide indemnification at any time to the pious institutions for the full collection of canons, tithes, and dues, and for any other rights per-

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taining to those pious institutions; and also to fulfill, as is due, the pious obligations attached to the lands, unless they are fulfilled otherwise.

4. To warn their heirs and successors, through a signed document, of these obligations, so that they too may know to what they are bound.

12. Whether the power of the Jubilee also includes the power to absolve penitents from heresy (4)?

A: Affirmative, after they have first abjured and retracted their errors, as is fitting.

(1) Whether and how can those be absolved who not only received ecclesiastical goods from the Government in perpetuity, but also redeemed them?

(2) Whether and how can those be absolved who redeemed censi and ecclesiastical rights of their redeemable nature?

(3) Whether and how can those be absolved who redeemed canons, tithes, dues, or other ecclesiastical rights of their non-redeemable nature?

(4) Whether among the powers granted for the Jubilee, is included the power of absolving penitents from heresy?

[*Latin ed. p. 33*]

33 DECLARATIONS

13. During the Jubilee, if someone who has already been absolved by it from censures and reserved cases should again fall into reserved cases and censures, can he be absolved a second time by performing the prescribed works anew? R. Negative.

14. If someone who has already obtained the Indulgence of the Jubilee can obtain it again, provided he repeats the prescribed works? R. Affirmative.

15. Can confessors use extraordinary faculties towards someone who, while requesting to be absolved and dispensed, does not have the will to perform the prescribed works and to gain the Jubilee? R. Negative.

Given in *Romae* in the Holy Penitentiary, on the 1st of June, 1869.

ANTONUS MARIA Cardinal PANEBIANCO, Major Penitentiary.

L. Can. HEIRANO, Secretary of the Holy Penitentiary.

(1) *An tempore Iubilaei, qui vi Iubilaei eiusdem fuerit a censuris et a casibus reservatis absolutus, si iterum incidat in casus et censuras reservatas, possit secunda vice absolvi peragens iterum opera iniuncta?* (During the time of the Jubilee, if someone who has been absolved by its power from censures and from reserved cases, should he again fall into reserved cases and censures, can he be absolved a second time by performing the prescribed works anew?)

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(2) *An ille, qui lucratus iam fuerit prima vice indulgentiam Iubilaei, potest eam iterum lucrari si repetat opera iniuncta?* (Can he who has already gained the Indulgence of the Jubilee, obtain it again if he repeats the prescribed works?)

(3) *An Confessarii uti possint facultatibus extraordinariis erga eum, qui petat quidem absolvi et dispensari; quique tamen voluntatem non habeat peragendi opera iniuncta et lucrandi Iubilaeum?* (Can confessors use extraordinary faculties towards him who indeed requests to be absolved and dispensed; and who nevertheless does not have the will to perform the prescribed works and to gain the Jubilee?)

[*Latin ed. p. 34*]

FROM THE SACRED CONGREGATION OF THE INDEX, DECREE — Tuesday, the 12th of July, 1869. With the customary clauses, the following books are prohibited: *La Bible dans l'Inde: Vie de Jezeus Christna*, by Louis Jacolliot. Paris, A. Lacroix, Verboeckhoven et C., publishers, 1869. Ernest Renan, *Questions contemporaines*. Second Edition. Paris, Michel Lévy frères, Booksellers and Publishers, 1868. Ernest Renan, *Saint Paul*, with a map of the travels of Saint Paul, by M. Kiepert, of the Academy of Berlin. Paris, Michel Lévy Frères, Booksellers and Publishers, 1869. *Primi insegnamenti cristiani esposti in Dialoghi da S. A. ad uso delle scuole elementari d'Italia*, approved on the 9th of October, 1868, by the Most Reverend Archbishop of Palermo. *Catecismo de Moral* written by Nicolas Pizzarro. Mexico, 1868. *Annuaire de l'Institut Canadien pour 1868*, celebrating the 24th anniversary of the Canadian Institute on the 17th of December, 1868. and me {Decree of the Holy Office, Thursday, the 7th of May, 1868).

[*Latin ed. p. 35*]

FROM THE DECREE OF THE HOLY CONGREGATION OF RITES, GRANTING FACULTY TO BISHOPS OF THE LATIN RITE AND THEIR PRIESTS, COMING TO ROME FOR THE ECUMENICAL COUNCIL OF THE VATICAN, TO CONFORM THEMSELVES TO THE CALENDAR AND THE RULES OF THE ROMAN CLERGY.

"The Most Holy Pope Pius IX, having graciously considered the fervent prayers of the Most Reverend Lord Joseph Fessier, Bishop of Sankt Pölten, and the approaching Ecumenical Council of the Vatican, as reported by the aforementioned Substitute Secretary of the Holy Congregation of Rites, has deigned to grant a special grace, so that the Sacred Ministers of the Latin Rite, who will come to Rome for the aforementioned Council, may, during their stay in the City, conform themselves, at their own discretion, to the Calendar and the Rules of the Clergy of that City, in the celebration of the Holy Sacrifice of the Mass and in the recitation of the Canonical Hours: indeed, this privilege is granted so that the priests devoted to their service,

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or acting as consultants, or as chaplains, may enjoy it. Notwithstanding any contrary provisions whatsoever. Given on the 19th of August, 1869."

C. Episcopus Portuensis et S. Rufinae, Cardinal PATRIZI, Prefect of the Sacred Congregation, with the seal. R. P. D. Bartolini, Secretary. Josephus Ciccolini, Substitute.

[*Latin ed. p. 36*]

APPENDIX I: CONCERNING ECCLESIASTICAL POWER TO JUDGE, AND REGARDING SUMMARY JUDGMENTS. In the age in which we live, ecclesiastical courts often find themselves excusing themselves, either because civil authority has made it difficult for them to function, or because they lack the means to establish judgments or to conduct proceedings according to the structure prescribed by law, or to observe the formalities and solemnities which the sacred canons prescribe; or because they lack the means to summon witnesses and to gather evidence; or because, in the case of ecclesiastical causes, civil authorities intervene, treating them in a civil manner, and denying each party their due rights, or, indeed, seeking vengeance for crimes; and other similar matters.

The occasion for the cause mentioned above, on page 3 and following, concerning this matter, we shall explain what seems to us to be the case.

Indeed, we do not deny the value and truth of these observations; each one should acknowledge that he knows the most miserable condition in which many ecclesiastical courts find themselves. Nevertheless, sometimes such reasons are seen to be unduly exaggerated, as if there were no canonical form for judging causes, unless a solemn apparatus, a sufficient number of ministers, and the support of civil authority are present, which are necessary for the proper conduct of the cause.

We can consider a second type of question; the first question, of the most general kind, could be posed thus: What should be done if the law...

[*Latin ed. p. 37*]

APPENDIX I. Do civil laws prohibit the passing of judgment, so that, if judgment is passed, the ecclesiastical judge would be condemned, as if he had exceeded the limits of his authority? There are indeed Catholics who seem absolutely to believe that, in such matters, prudence dictates that civil authority should not be provoked, that rumors should not be stirred up, and that peace should not be disturbed, which could be detrimental to the Church. We are not speaking of particular cases; but such arguments, if presented as enough as general principles, are the most false: for they do not accord with the concept of the authority with which the Church is endowed, nor with the manner in which those whom we should have before our eyes as examples acted in such matters. What would be a simple exception is converted into a general principle. To make this immediately apparent, it is enough to turn our eyes to the first century of the Church,

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which served as a model for subsequent centuries: there it will appear that this prudence is false, and that it is often resolved into cowardice, by which arms are surrendered to the enemies of the Church, so that they may triumph to the detriment of the same: for in this way, ecclesiastical authority is diminished: just as it never shines so brightly as when it resists the audacity of the laity.

In the first century of the Church, Peter judged, Paul judged, and what a kind of judgment! Ananias and Sapphira knew this, so that "And there came great fear upon the whole church and upon all that heard these things." Acts 5:11. The incestuous Corinthian knew what Paul's judgment was, who delivered him to Satan for the destruction of the flesh, 1 Corinthians 5:5. Hymenaeus and Alexander, whom Paul delivered to Satan, that they might be taught not to blaspheme, 1 Timothy 1:20. The Church of the Corinthians knew that Paul had threatened to come with a rod to them, unless the Corinthians corrected their ways. Elymas the magician, although not a Christian, who, seeking to turn the proconsul away from the faith, heard these words: "Behold, the eyes of the Lord are upon you, and you shall be blind, and you shall not see the sun for a time." Acts 13:11.

It is true that such sentences were carried out either through the invocation of divine power, or through the arm of Satan, who, lacking secular power, was forced to carry out Paul's sentences; therefore, the execution of sentences was extraordinary. However, from this very fact, it must be admitted that the sentences were very serious, and were pronounced without any consideration.

[*Latin ed. p. 38*]

38 APPENDIX I, concerning that which might be feared from public rumor or from civil authority, at a time when the Church was experiencing the most difficult trials of persecution. And if there was ever a time when it seemed necessary to act with the utmost caution, lest the minds of either those who held authority or of the unfaithful people be stirred up, it was certainly that time, when the Church was being founded without arms and without any human support. But not only did the Apostles do this, but they also commanded those whom they placed in charge of the Christian people, and therefore, to each and every one, according to their position, who in some way presided over a faithful people. "Reprove sinners before all, that the rest may be afraid," says Paul to Timothy, 1 Timothy, chapter 5, verse 2. Also, 2 Timothy, chapter 4: "Preach the word, be urgent in season and out of season, reprove, entreat, admonish in all patience and doctrine." And to Titus: "Speak these things and exhort and reprove with all authority." But let this suffice for now, since the matter is quite clear. Furthermore, from this, it appears to me how great is the authority of the Church when considered in itself, in comparison with which the authority that is called

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civil seems to be but a shadow; although, whether through levity of mind or through false ideas of the present age, some consider the authority of the Church to be merely a follower of civil authority, and rather its thinnest shadow. Authority is not to be considered and measured by the brilliance of arms, by the number of soldiers, by golden coins, by the extent of diplomas, which are nothing but certain external signs: but beyond the meanings of these signs that appear externally, one must raise one's eyes; for the authority of the Church extends, at least in its intention, to all people, and it possesses such value and is raised so high, as the invisible heaven in which it has its greatest power: whereas the civil authority does not go beyond its own territory, nor is it raised higher than the tranquility and order of human society, provided that it is not contrary to the order of divine law, of which the Church is the judge. It must be repeated, against the false ideas of the present age, that some assert that the Church has no power to inflict temporal punishments, and that it has exceeded the limits of its power whenever it has done so, or that it has done so either because it has been granted this power by the princes of this world: that it cannot interfere in secular affairs; and other things of this kind. Hear again what Paul wrote to the Corinthians in his time, besides what he and Peter themselves did concerning temporal punishments: "Does any one of you dare to judge those who are outside the law?"

[*Latin ed. p. 39*]

89 APPENDIX I: Is a matter against another judged among the unjust, and not among the saints? Do you not know that the saints shall judge the world? And if in you the world is judged, you are unworthy; but if you judge the world, you shall be judged. Do you not know that we shall judge angels? How much more, then, secular matters? Perhaps you dare to say that Paul exceeded the limits of his authority when he announced and impressed these things upon the faithful in Corinth, and that these things should be referred to pompous speech, since he said that the authority of the Church is so much greater than the authority of the secular world, that the latter is insignificant in comparison to that with which the Church is endowed? Another question, which is entirely legal, can be put in this way: How can an ecclesiastical judge act in those jurisdictions in which the authority of the Church is scarcely, or not at all, admitted by the civil government; and who has no means of preserving the canonical form in dealing with ecclesiastical causes, nor any coercive power to enforce judgments? With regard to the first part of this question, the answer is easy: it is certainly not necessary for the exercise of ecclesiastical authority to have the suffrage, recognition, or admission of civil authority. For ecclesiastical authority in no way depends on civil authority, and it would be a grave error to affirm the contrary. The condition of which we are speaking, in places where it is not admitted or is scorned by civil authority, is not new in

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the Church: for all ecclesiastical judges have always been in this condition, until the Church had good Catholic rulers; and yet they have always judged in ecclesiastical matters; and all the ancient ecclesiastical documents, from the apostolic age onwards, which deal with ecclesiastical discipline, bear witness to this. In the very apostolic age, Paul, in 1 Timothy 5:17, after instructing Timothy: "Let the priests that rule well be esteemed worthy of double honour: especially they who labour in the word and doctrine," added: "Against a presbyter, receive no accusation unless under two or three witnesses." Thus, Timothy judged, even while observing the canonical form, at a time when the authority of the Church was certainly not admitted by civil authority. But it would be useless for me to adduce further testimonies on this matter, since the ancient ecclesiastical documents are full of them, as can be seen in the Constitutions and Canons that come under the name of the Apostles, and which, although not written in the apostolic age, nevertheless refer to the apostolic tradition to a great extent; and all the ancient documents bear witness to this.

[*Latin ed. p. 40*]

40 APPENDIX I. The most excellent Councils, both provincial and œcumenical, in which the majority of decrees are established, and the form of judgments is prescribed by which judgment should be rendered, yet in which consideration is given to the manner in which civil authority should act. Regarding the second part of the question, an ambiguity must be removed, which may arise when it is said that the ecclesiastical judge has no authority to maintain the canonical form. For the words, "canonical form," are most ambiguous and can have as many meanings as there are legitimate tribunals: for all tribunals generally have their own special form of procedure, either by ancient and legitimate custom, or by special laws imposed upon them; which we see most clearly in Rome: and such forms can rightly be called canonical. However, considering the common canon law, the form of judgments is divided into two main classes, one which is called ordinary or solemn, and the other which is called summary: the former is the older form, the latter is the more recent; although, if it can be called recent, that form which, as it should, gives rise to the solemn form. Almost all ecclesiastical judgments today can be conducted in the courts in summary form. The authors speak extensively about the solemn form of judgments; but less about the form of summary judgment, concerning which we believe it is more appropriate to recall the following. Regarding summary judgments within the body of canon law, we have two pontifical provisions, the first of which is found in the Clementine Decrees, Dispensations 2, concerning Judgments, in which Pope Clement V decreed as follows: "Desiring to restrict the prolongation of lawsuits (which experience sometimes shows to arise from a subtle observation of the order of judicial proceedings), we decree the following: that in causes concerning

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elections, petitions, or appointments, or concerning dignities, personal matters, offices, prebends, or any ecclesiastical benefices, or concerning tithes, and also concerning marriages and usury, and those matters which in any way relate to them, proceedings may henceforth be conducted simply and plainly, and without the pomp and circumstance of a trial." Here, as you see, many causes are indicated, and indeed in serious matters, which can be dealt with in summary form, not excluding even matrimonial causes: so that, it is not without reason that one might say, except for causes strictly criminal in nature concerning clerics, or except for causes concerning the beatification and canonization of the Servants of God, which at least...

[*Latin ed. p. 41*]

APPENDIX I: After Urban VIII, other cases may be treated with a summary judgment. But concerning the reasons which, for some reason, must be excepted for the sake of observing particular solemnities, I shall say more below. The matter to be investigated is what constitutes a summary judgment, regarding which we have another Constitution within the body of canon law, namely in Clementines, Saepe 2, de Verbor. which reads as follows: "It often happens that we entrust cases and order them to proceed openly and without fanfare or display of judgment. Regarding the meaning of these words, there is much contention, and it is doubtful how to proceed. We, however, desiring to resolve such doubts as far as possible, enact this Constitution, which shall remain in force forever, so that the Judge to whom such a case is entrusted shall necessarily not require a written petition; he shall not demand a formal contestation; he may proceed even during holidays for the necessities of men; he may shorten delays; he shall make the litigation as brief as possible; he shall repel dilatory exceptions, appeals, and frivolous objections; he shall restrain the contentions and quarrels of the advocates and procurators of the parties, and the superfluous multitude of witnesses. However, the judge shall not shorten the litigation in such a way that necessary proofs and legitimate defenses are not admitted. Moreover, we understand that the citation, and the taking of an oath regarding calumny or malice, or regarding the speaking of the truth, so that the truth may not be concealed, are not excluded in such proceedings. But because, according to the form of the petition, the judge must follow the request of the petitioner, and also of the opposing party, if he wishes to request anything, the petition must be made at the very beginning of the litigation, either in writing or verbally; however, the acts must be recorded continuously so that a fuller certainty may be obtained regarding the positions and articles to be formed, and a clearer definition may be made. And because positions have been admitted for the easier progress of litigations through the confessions of the parties, and articles for a clearer proof, we wish to observe the use of these, and therefore we decree that the judge so appointed by us shall, unless otherwise directed by the will of the

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parties, be able to set a deadline for both; and he shall be able to assign a certain day for the presentation of all acts and documents which the parties wish to use in the case, after the day for the presentation of articles has been set (whenever he may deem it appropriate), with this reservation, that if a remission were to occur for the production of witnesses, instruments may also be produced, notwithstanding such assignment. He shall also question the parties, either at their request or ex officio, wherever equity suggests. Finally, the definitive sentence..."

[*Latin ed. p. 42*]

APPENDIX I. That which has been stated above, although not definitively, is to be observed in the writings, and (as may seem more fitting) standing or sitting, it may be presented: and (if it seems good) a conclusion may be reached. All of these things, even in those cases in which, through another constitution or other means, it can be proceeded with simply and plainly, and without the pomp and circumstance of a trial, we wish to be observed. However, if in the aforementioned cases a solemn judicial procedure, in whole or in part, is observed, without the parties objecting, the process will not be rendered void by this, nor should it be rendered void. Given at Avignon, on the thirteenth day of December, in the second year of Our Pontificate.

Therefore, a summary judgment is that in which the Judge can proceed simply, plainly, and without the pomp and circumstance of a trial; that is, in which a formal written document is not required, but a simple petition made at the beginning of the dispute, whether in writing or verbally, is sufficient, which must be immediately entered into the record; a formal contestation of the dispute is not necessary, by which, in ordinary trials, the parties litigant, as it were, undertake to pursue and prosecute the dispute; which is the foundation of the trial; the process is not hindered by holidays due to the necessities of men, such as harvests, grape harvests, and others; the Judge can curtail the matter of delays; he can make the dispute shorter, as far as possible, by rejecting dilatory and frivolous appeals; he can restrain the contentions and quarrels of the parties, lawyers, and procurators, and the superfluous multitude of witnesses; these things, which should be done, if possible, in an ordinary trial, much more so in a summary trial. However, necessary proofs and legitimate defenses are not to be rejected; for the Judge must not omit anything by which the knowledge of the truth may be hindered or concealed. The citation is not abolished; but it has this particular characteristic, that, whereas in other trials, at least at the beginning or to hear the judgment, a triple or peremptory citation is required, in these trials, a single, even non-peremptory, citation is sufficient, both at the beginning and for hearing the judgment. The taking of an oath to avoid calumny or malice, or to speak the truth, is not abolished. Positions and articles are not rejected; because the former consist of particular confessions

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of facts, which one party puts forth or affirms, seeking that the other party admit them, which are also called interrogatories; but the latter are very useful for a clearer proof: for positions consist of particular confessions of facts, which one party puts forth or affirms, seeking that the other party admit them; but articles are very useful for a clearer proof.

[*Latin ed. p. 43*]

APPENDIX I: Limited and concise articles are established upon which to deliberate; in this manner, the factual questions are greatly restricted: although, in practice, this often turns out differently, as I will explain below. The Judge must set a deadline for presenting and stating the articles: then for the evidence, for producing witnesses and documents: then for stating arguments against what has been presented. The Judge will question, if it is necessary, either on his own initiative, or at the request of the parties, which is required in every part of the judgment. The judgment must be delivered by the Judge in writing. These are the principal matters that arise in summary proceedings, according to the alleged Clementine texts. The authors usually inquire what of these things are essential, so that if they are omitted, the process is invalid; and what are not essential. I do not wish to pass over in silence, here, those things which were already noted in their time by Cardinal De Luca, both concerning the oath and concerning the positions. This author, with his usual ease of speaking, which is often, although not always, unrefined, and with a particular and outstanding practical sense, as they say, wrote the following in discourse 35 on judgments concerning the oath in general: "In both law, civil and canon, and more especially in the latter, there is great force and effect in the oath: and the greater this is, the more the ancient Canonists and moral theologians have written, so that there are many volumes, composed by both kinds of writers, on this subject, and many more questions are raised..." However, because times have changed and customs have changed, modern writers seem to be rebuked for simply and indefinitely accepting the same procedures as the ancients. Although, even now, perjury is always condemned and sinful before God, when it is committed knowingly and deliberately; nevertheless, the diversity of customs and times has brought about a great change: and therefore, according to the rule of law of changing causes or changing reasons, I believe that several effects have ceased; and therefore, it is erroneous to proceed generally and indefinitely according to the traditions of the ancients, without considering the circumstances of the cases. "Indeed, in former times, to which, attentive to its customs, both the laws and canons, and many interpreters have spoken, the taking of an oath was not undertaken except rarely and for a very important reason, after careful deliberation and a certain assurance of the consequences that would follow; then, because of the severe corporal punishments with which the convicted perjurer was subjected, and especially, according to the custom of some

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regions, the amputation of the hand..."

[*Latin ed. p. 44*]

44 APPENDIX I, on the right; then also because of the great stain of infamy, which, although not merely a matter of law and ideal as the Moderns claim today, but in fact in the opinion of men and peoples: therefore, he considered such a charge to be incurred; and consequently, the rights of the mind were reasonably and solemnly and maturely exercised. "Indeed, today, due to its excessive frequency, it can rightly be said to have passed into abuse, since in any slight action, according to the style or form of Notaries, or in the clauses usually appended, it is inserted; so that those who swear do not even think about what they are doing; therefore, they do not believe that they are sinning, and in fact no stain or mark of shame is incurred..." And closer to our matter concerning the oath of calumny, in the aforementioned work, no. 16, he wrote: "This other species of oath, which is called the oath of calumny, is more relevant to judicial matters, and it is especially in use in the Kingdom of Naples, where, and also in the Court, it is customary for Advocates to oppose, in general protests, which are usually made at the beginning of a lawsuit, the taking of this oath; yet, for the reasons mentioned above, this practice seems to me to be little commendable, and in my opinion it should be abolished, since it has passed into a mere ceremony or formality; and indeed, there is hardly a case in which its taking frightens or deters from the prosecution of the lawsuit, which therefore serves only to give an opportunity to offend and harm souls." "Regarding the defects of this oath, the questions usually arise as to whether nullity results from it in judgments or proceedings, and where it has been expressly objected, some believe that nullity results. But in my judgment, this is the same undiscerning rigor of the law, which rather provides an entrance or fuel for calumnies, since (as has been stated above) the taking of the oath has been reduced to a mere formality, and never has practice shown it to have had the effect or benefit for which it was introduced. Therefore, rightly, in most courts and places, although the customary form is objected to it, it is dismissed from the court, and especially in the Rota, when it is known to be neglected for good reason." These things were written by Cardinal De Luca in the 17th century. Regarding positions, the same Author, in the aforementioned work, in disc. 23, and disc. 36, no. 11, he says: "It would also be very commendable to abolish another practice, namely, the practice of answering positions; for practice shows that this use of positions serves nothing but to foment quarrels."

[*Latin ed. p. 45*]

APPENDIX I: Concerning the formalities and delays, along with the waste of time and expenses, in disputes concerning these matters, both regarding the excessive number in which they are often presented, as well

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as regarding the lack of clarity, and even concerning the response, whether and when it is sufficient, or whether it should be more precise and conform to the formal procedures of practice, which truly seem to give the appearance of Judaism without any beneficial effect, at least for frequent practice. "Then this practice would seem to be permissible, when it concerns a fact that is difficult in its nature: for example, concerning a loan or another fiduciary agreement, which has been made without the intervention of writing or witnesses; therefore, because of the nature of the fact, it would seem probable that the principal himself, if questioned by the other party, would not deny it; and in such a case, considering primarily the purpose or effect for which the law introduced this, this question and the respective answer should be made before the Judge by the principals themselves, without the assistance of advocates, who might suggest misleading answers." Thus far, the praised Author speaks of these formalities in ordinary trials. But, besides those which are prescribed by general law, it is useful to mention what the Roman Pontiffs decreed concerning the judicial form in the tribunals of Rome and in those existing within the Pontifical jurisdiction. If there is a place where the solemn form of ecclesiastical trials can be observed, it certainly ought to be in the temporal jurisdiction subject to the Roman Pontiff. But Pope Pius IV, in order to remove ambiguities, which arise more from the subtlety of the law than from the proper administration of justice, for the purpose of abbreviating lawsuits and at least reducing the expenses of the parties, decreed the following concerning the Sacred Tribunal of Rota, among other things, in the Constitution *In throno iustitiae*, published on December 27, 1561: § 13: "Henceforth, in pending cases, certain nullities shall not be considered, except those arising from a lack of jurisdiction, citation, or mandate, unless a nullity specifically, before the date of the present document, has been committed." The same Pope, concerning the Tribunal of the Referendary Signature of Justice, in the Constitution *Cum nuper*, published on July 1, 1562, § 5, decreed: "Let the other Referendary abstain from affixing his hand to commissions concerning nullities and objections, unless nullities arising from a lack of jurisdiction, citation, or mandate, and the objections themselves, are expressed." Similarly, the same Pope, reforming the ordinary tribunals of the City of Rome and the Roman Curia, concerning civil and criminal cases, in the Constitution...

[*Latin ed. p. 46*]

4(5 APPENDIX I, issued by him on June 30, 1562, § 13: "Nullities are not to be considered, except in cases of defective citation, jurisdiction, or mandate; but, notwithstanding these, the cause should proceed to judgment." Clement VIII, in the general Constitution, *Litium dispendiis*, issued on February 9, 1593, decreed: "We desire, as far as in us lies, to prevent the expenses and vexations of lawsuits, especially among those persons who are

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under our care and jurisdiction, even in temporal matters: § 1. We extend and amplify the blessed and venerable decree of our predecessor, Pope Pius IV, which prohibits the judges of the esteemed city from considering nullities, except in cases of defective citation, jurisdiction, or mandate, but, notwithstanding these, from proceeding with the causes, to all and every judge ordinary and delegated, magistrate and official, in any temporal or ecclesiastical province and state, land, town, and place, exercising jurisdiction and holding office, and we decree that this our constitution shall remain perpetually valid and be firmly and inviolably observed in any secular or ecclesiastical tribunal or court. § 2. And we command and order that, by any and all of these judges, even the auditors of the Apostolic Palace, even the Cardinals and legates of the Holy Roman Church, even if they have been deprived of and have lost any other judicial power, in any cause and instance, even those now pending and those to be brought in the future, ecclesiastical, secular, civil, or criminal, or mixed, they must proceed to the judgment and determination of such causes, without considering any nullities other than those expressly mentioned above. We decree that it shall be null and void if, in any way, by anyone, knowingly or unknowingly, anything contrary to the foregoing should occur. § 3. Notwithstanding the Apostolic constitutions and ordinances, and even those issued in general councils, etc." This Constitution was affixed in all the customary places of the city; and such affixion is sufficient for the universal promulgation of ecclesiastical laws. With this Constitution established, those legal questions cease which troubled the minds of canonists in determining what were the essential formalities that, if omitted, would vitiate the process, and what were the non-essential ones that, if omitted, would not vitiate the process. And so that I may not seem to say this merely from my own opinion, I quote the words of Pax Jordanus, an author of the twelfth century, from *Elucubrationes*, volume 3, book 1, chapter 13, number 73, who, citing this Constitution, wrote: "From these things, therefore, it follows..."

[*Latin ed. p. 47*]

APPENDIX I: "Concerning summary judgments, it is required to state what is necessary, to specify the points at issue, to present all [evidence], and to declare against the presented [evidence] that it is no longer of substance, so that its omission will not vitiate the process; but only then, if the status of the case requires it, or even at the discretion of the judge, who must then grant appropriate delays to the parties, and dismiss superfluous matters, provided that he can ascertain the truth. Piassec, in Praxi Episc., p. 2, c. 4, de ord. iudic., n. 70, confirms this with an example from the practice of the Auditor of the Camera: 'Where, for a chamber obligation, which is manifestly due, no formalities of terms are observed, but by a citation to pay and a prior notification, an executive mandate is issued against the debtor, and other things as the subject matter requires: a different method

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of proceeding is practiced in different cases.' From this, it also seems that, in a case that has been decided, if the time for a useful appeal has passed uselessly, that ordinary remedy no longer suffices, which certainly prevailed in ancient times in the Roman Curia, and which was called the remedy of nullity; but only the remedy of restitution in integrum suffices. Regarding the practice concerning that ordinary remedy of nullity, Cardinal De Luca left these words: who, describing the practice that was in force in his time, did not very much care to investigate the origin of the same practice: de Iudiciis, disc. 38, n. 5: 'Indeed, in the Tribunal Rota and the Auditor of the Camera, and in other tribunals which are rather to be called universal tribunals of the Curia than particular tribunals of the state, the exercise of this remedy seems to have largely receded from the court; although in the Commissions for style or form, all remedies are completed, namely, appeal, nullity, and restitution in integrum: nevertheless, when it is alleged that something obstructs the res judicata, or three conforming judgments, so that the first remedy ceases, then the third will be primarily debated, rather than the intermediate one. Therefore, very often, in the Rota, there is debated the usual doubt, whether there exists a res judicata, or rather, causes for restitution in integrum; never, however, is there debated, nor is it ever primarily debated, the doubt: whether there exists nullities. Indeed, when a judgment is alleged to be null, then, if a party so insists, it is usually granted a doubt, which was in use in earlier times, but from which there has been a regular departure: namely, whether the judgment is to be confirmed or infirm."

[*Latin ed. p. 48*]

48 APPENDIX I « manda, thus requesting confirmation » from the head of nullity proceedings >. And « n. 7 ibid. « Consequently, » it follows that in the Tribunal « regarding nullities, » those frequent discussions are not heard, « which are heard in the Tribunals » of some other principalities, « and especially in the Sacred Council » of Naples. However, if in summary proceedings, of which we are speaking, nullities are not to be considered except for lack of citation, jurisdiction, or mandate, it does not follow that judges are not to observe the necessary and appropriate solemnities for ascertaining the truth: these can be varied according to the variety of causes; but it only follows that a judgment cannot be impugned because some solemnity, which is said to be required by law, was not observed. If, however, some solemnity was neglected which would have led to the discovery of the truth, the injured party may appeal in the court of appeal, in which case the appellate judge must also consider this matter; an example of this can be seen in the case that I cited in vol. II, page 401. If all of this is to be expressed in a simpler manner, a summary judgment can be said to be that in which the solemnities that must be observed are those prescribed by natural reason itself, with regard to the cause in question. A judgment

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is commonly described as the legitimate discussion and adjudication of a controversy before a judge, as argued in chapter 10 of the *Argumentum* on *Verba Signifiantia*. Therefore, the substance of a judgment requires: 1° a person endowed with the authority to judge, who is called the judge; 2° a plaintiff, who is the one who brings the controversy and brings another to judgment; unless the case is one in which the judge must act on his own initiative through investigation, as happens especially in criminal cases; 3° the defendant, or that person who is brought before the judge at the instigation of the plaintiff. These persons are necessary for the judgment, as reason dictates; but the others pertain more to convenience and solemnity, such as those for the judge, vicar, counselor, assessors, notary, and bailiff; and for the litigants, the procurators and advocates. Once these three persons exist, reason dictates that, after a petition has been made by the plaintiff, the defendant should be summoned by the judge: this act, which the judge performs as a judge, is called a citation; it is evident that, without a citation, whatever the judge does would be invalid: for natural reason requires that no one be judged unheard. Although a citation...

[*Latin ed. p. 49*]

APPENDIX I. This is commonly done through Apparitors, or Process Servers, or Messengers of the court, who, under various names, are called in law according to the diversity of regions; however, the Judge can execute it himself, and this is more valid. He can choose any other person, even someone from Privas, or his own servant, or a member of the court, provided that there is proof of the commission; in this matter, the opinion of the Doctors is unanimous. After the citation, disputes naturally follow, and then a certain order must be established, either to determine the questions or to present the evidence, which is done either through documents or through witnesses: for this reason, the witnesses are called and heard by the Judge, and are sworn to speak the truth, as the parties bring them forward. When the testimonies of the witnesses, the petitions of the parties, and the manner in which the Judge proceeds are written down, this constitutes the record of the proceedings: when these are completed, the Judge, having considered everything, pronounces the sentence. This is generally the case. However, in the specific acts that must be performed, and those that must be rejected, the nature of the case and the persons involved almost dictate: thus, if suspicious witnesses are brought forward or are recognized as easily lying, they must be refuted, or their testimonies must be given due weight; if the number of witnesses and documents is excessive or useless, it must be restrained; if delays are requested, they will not be granted unless it is to create prejudice or to prolong the case; if special information is needed, either about places or about matters on which the parties do not agree, the Judge will, by his office, appoint suitable persons to investigate these matters, and other similar things. Thus, the Judge must

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conduct himself in such a way that he does not lean towards one side or the other, but rather, until all has been completed and proven from the record, he does not judge. From this, it is clear that, although the Judge must be skilled in the formalities of the law, the use of these formalities depends more on his prudence, which must be the greatest, as the nature of the judgments requires. However, there are ecclesiastical causes that require special formalities, such as matrimonial causes and causes concerning religious profession, which, although they may be treated summarily, nevertheless require that special formalities or prescriptions be observed, according to the Constitution of Benedict XIV, *De Synodo*, and another Constitution of the same Pontiff, *Si Datam*. We have often spoken of these formalities in our publications when we have presented these cases. However, it often happens that some formality or prescription is omitted by the Ordinary Judges in these cases, which would render the proceedings invalid.

[*Latin ed. p. 50*]

50 APPENDIX I: concerning the acts and, consequently, the sentences: but when cases are brought through an appeal to the Holy See, we have observed that these rules are followed, and if the omission of a formality could harm the cause of justice, the Sacred Congregations write to the Ordinaries, instructing them to complete the acts of the process, and also giving specific instructions if necessary; but if the omission of a formality does not seem to harm the cause, then the Sacred Congregations judge the merits of the case, and at the same time order that the Reverend Father Secretary consult the Most Holy Father, so that by his authority he may validate the process despite its defects. Regarding criminal cases of clerics, stricter formalities are required, but these prescriptions seem rather to apply to cases of this kind which are dealt with by the courts within the jurisdiction of the Holy See; because in other jurisdictions, either already through Concordats, these cases are dealt with, or because the ecclesiastical courts would act in vain in inflicting corporal punishment: therefore, if any criminal cases are dealt with in courts outside the pontifical jurisdiction, they are instituted not for any other purpose, except for the deprivation of parishes or benefices, or for the imposition of suspension and excommunication. These cases can also be dealt with in a summary manner, provided that certain prescribed formalities are observed, which are customary since the Council of Trent. Thus, a Canon and a Prebendary cannot be deprived of their position due to negligence and absence, unless that method is followed which was prescribed by the Council of Trent in session 24, chapter 12, concerning reforms. A parish priest who has been canonically instituted cannot be removed due to an unjust suspicion, unless, after warnings, he proves to be incorrigible. All of these things we are not pursuing at present, since they pertain to a special treatment. From all of this, it is clear that the canonical judicial form is not difficult, since the form of summary judgments, by

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which almost all cases can be dealt with, is ultimately reduced to the form which natural law itself requires, and which equity suggests.

[*Latin ed. p. 51*]

PROTESTATION AGAINST THE PUBLISHERS OF BALTIMORE, KELLY AND FIET. We have received letters from trustworthy persons in the United States of America, which have informed us that the publishers of Baltimore, Kelly and Fiet, intend to reprint our Latin periodicals in Baltimore with their own types. We warn our readers that such an edition will in no way be approved by us. Indeed, we protest against those publishers who have dared to consider it permissible to appropriate another's work, and to expose it to great damage. However, we trust that, considering these matters, their honor will not allow them to carry out their intended plan. Moreover, if they themselves wish to take care of the distribution of the Roman edition, we would readily grant this to them, not without their benefit.

PETER AVANZINI, ROMAN PRIEST, Author and Proprietor of the Latin Periodicals.

[*Latin ed. p. 52*]

FROM THE HOLY CONGREGATION FOR THE SACRED RITES, CONCERNING THE ECCLESIASTICAL CULT OF SAINT JULIANA, APOSTLE OF CORNELIA, AUTHORIZED TO BE EXTENDED TO THE CITY AND THE WORLD. Supplication. MOST BLESSED FATHER: "It is permissible for the Archbishop of Mechlin and other sacred ministers in Belgium, to present themselves before the Apostolic Throne with repeated expressions of the highest veneration and filial love, and to express the most ardent desire of their hearts to Your Holiness. This very desire, we trust, will be pleasing to the visible Vicar of Christ, and will truly contribute to the growth of faith and piety, and to the increase of the worship of the divine liturgy, whereby God, hidden in the most august Eucharist, is worshipped everywhere. "Indeed, Most Blessed Father, moved by the charity of Christ, we dare, prostrate at Your august feet, to humbly beseech Your Holiness, that the public cult of the most holy Virgin Juliana, which has hitherto been confirmed by nine Roman Pontiffs and extended to the universal Church by the decree of Your voice, may be extended. "These, Most Blessed Father, are the arguments of our petition, which are further elaborated in the appendix attached to this supplication (1), so that we may foster a pleasant and certain hope (1). In the appendix, which the most eminent prelates of the Sacred Orders in Belgium cite in these prayers, it was most learnedly demonstrated what they asserted: documents were also contained demonstrating how the most august Body of the Lord began in the Catholic Church and spread throughout the world; also documents that showed the antiquity of the cult of the Virgin: only a few of these

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documents will be mentioned in our Appendix U. for the sake of brevity.

[*Latin ed. p. 53*]

DB CAUSA S. IULIANAE CORNELIONENSIS 53: With the soul, looking to the future, that the Pontiff, both in piety and in name, might be Maximus, who has inspired many servants of God to the ranks of the Blessed or Saints, and who has amplified the cult of some of the Saints, it is determined that the honors of Saint Julian be increased, and that her memory, for her outstanding merits to the Church, be spread throughout all the churches of the Christian world. "And truly, Most Blessed Father, we are greatly saddened that among Catholic nations, there exists Belgium, from which no Saint is venerated in the Roman Liturgy with a universal feast; and yet, the provinces of Belgium, so dear to Your paternal heart, have produced many Saints and Virgins, who have been most deserving to the Church and the Apostolic See in every age, and who still deserve it. "Among the heavenly patrons of the Belgian nation, who are publicly honored throughout the entire Church, none seems more fitting to be chosen than Saint Julian of Cornelion. For this chosen vessel, whose works pleased the Most High, brought about the introduction of the solemn feast of the Body of Christ, in which, as the Council of Trent states (Session XIII, chapter 5), "the truth triumphs over heresy." It seems just, therefore, that she, who has brought such a benefit to the entire Church, should also be publicly celebrated by the entire Church as a sign of gratitude. "The Virgin of Mont Cornelion, so devoted to the worship of the Eucharist, was so honored by God the Most High, that in order that she might happily fulfill the divine command imposed upon her, He deigned to grant her associates and collaborators, the most distinguished men in the Church, both in dignity, in knowledge, and in virtue. Indeed, Most Blessed Father, we will not mention all here, but to the help of Saint Julian, by some divine impulse, came not only pious priests and learned theologians, but also illustrious bishops, such as Robert of Torota, conspicuous for his piety; and Cardinals Legates, such as Hugh of Saint Caro, and his successor in the Nunciature in Germany; and Supreme Pontiffs, such as Urban IV, formerly the Archdeacon in the city of Liège, where he saw and knew Saint Julian; and finally, Doctors of the Church, such as Saint Thomas of Aquino, who, at the command of Urban IV, composed the wonderful, and truly divine, office for the feast of the Body of Christ. "Therefore, Most Blessed Father, it seems just, and in accordance with divine plans, that the holy Virgin, who has been so singularly favored by the Supreme..."

[*Latin ed. p. 54*]

54 CONCERNING THE CAUSE OF SAINT JULIANA OF CORNELIA: Has she been honored and exalted by divine grace, so that she may exercise a most salutary and truly catholic influence upon the entire Church? And

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has she, in turn, been honored by the entire Church with a proper Catholic worship and the veneration of all the faithful? "Indeed, Most Blessed Father, there are not lacking testimonies, most worthy of belief, by which it may be convincingly proven that the public cult of Saint Juliana existed even before the most wise Decrees, by which Pope Urban VIII subjected the solemn canonization of the Blessed to due process. "Among these, it is worthy of note that the public cult of our Holy Virgin has been established and confirmed by the authority of nine Roman Pontiffs, in four dioceses of Belgium and in one diocese of the Netherlands, and throughout the entire Order of Cîteaux. "Given these circumstances, Most Blessed Father, we place our firmest hope in your equity and benevolence, that the feast of Saint Juliana, together with the office attached to this humble petition, or with another, may be extended by your Apostolic authority to the entire Church, and observed for all time. "Since the fifth day of April, on which the Most Holy Virgin of Cornelia departed from this world to Heaven, is assigned in the Roman Calendar to the feast of Saint Vincent Ferrer, and it frequently happens that the days following are not free during Holy Week and the Paschal celebrations, we humbly beseech your Holiness to deign to establish the feast of Saint Juliana in the month of February, or at any other less inconvenient time. "May the most benign paternal authority of Pope Pius Ninth deign to receive the testimony of love, devotion, and obedience, with which the Supreme See, and the successor of the Blessed Apostle Peter, are honored by the Archbishop of Mechelen and his suffragans. May he also deign to impart the Apostolic blessing to those very individuals, and to the beloved clergy and faithful people of all of Belgium. Which we, prostrate before him, repeatedly implore." The most humble servants and most devoted sons in Christ, Victor Augustus, Archbishop of Mechelen; Gaspar los, Bishop of Tournai; Theodorus, Bishop of Liège; I. I., Bishop of Bruges.

[*Latin ed. p. 55*]

OF THE CAUSE OF ST. JULIANE OF CORNELION: 55. Henry, Bishop of Gand, and Theodore, Bishop of Namur, at Mechlin, on August 11th, in the year of Christ 1868, 610 years after the death of St. Juliane. A synopsis of the discussion. NOTES OF THE REVEREND FATHER PROMOTOR OF THE FAITH.

Since a petition had been made by the Sacred Prelates in Belgium, that the public cult, by which the Virgin Juliane of Cornelion, now called a Saint, is especially venerated in Belgium, be extended to the entire Church, and also requested by Maria Henrietta, Queen of the Belgians (1); before the matter was discussed, the Defender of the Faith presented two doubts to the Holy Congregation, the foundation of the first being that of the second, namely: "Whether and how the name of the Virgin Juliane of Cornelion, now called a Saint, should be added to the Roman Martyrology?

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And, if so, in what manner? Secondly: Whether and how her cult should be extended to the entire Church?" Having proposed these formulas for doubt, he briefly noted some things. Namely, it clearly appeared from the documents presented that who and what Juliane of Cornelion was, and everything necessary for introducing her into the Church on the solemn feast of the Body of Christ.

(1) Thus stands the petition made by the Queen of the Belgians:

"MOST HOLY FATHER,

Marie Henrietta of Austria, Queen of the Belgians, her heart broken by the most painful trials, does not wish to forget what she owes to God, and what may contribute to His service and glory. She therefore hurries to support, before Your Holiness, the request of the Archbishop of Malines, regarding the extension to the universal Church of the feast of St. Juliane, promoter of the Feast of God.

She desires this favor from the Holy See as a daughter of the House of Habsburg, and as Queen. She desires it as a daughter of the House of Habsburg, because since Rudolph I, Emperor of Germany, so famous for his piety towards the august Eucharist, her family has always shown itself faithful to the faith of this illustrious ancestor. She desires it as Queen of the Belgians, because Belgium, so fertile in Saints, has nevertheless, until now, no Saint who is honored with a public cult throughout the entire Church, an honor which seems especially due to a Saint whose influence on the Church has been universal.

It is this grace that I implore Your Holiness to grant to her daughter, with Your apostolic and paternal blessing.

MARIE HENRIETTE.

Brussels, August 8, 1868, feast of St. Gaétan of Thiennes."

[*Latin ed. p. 56*]

56 CONCERNING THE CAUSE OF SAINT JULIANA OF CORNELIA: He also observed that the antiquity and reason of the cult were clearly evident, to which were added the indulgences granted by the Supreme Pontiffs. However, he noted that, although the Apostolic See had enriched this Virgin with indulgences, it had never issued a decree stating that the cult was established by a special case, or by the indulgences themselves granted by the Pontiffs; therefore, our Juliana had never been elevated by an equivalent Beatification; and thus, it should be considered whether such a decree was necessary before proceeding with the petition in question. Furthermore, he observed that the cult by which the Blessed are honored is merely permissive, and is not extended to the entire Church; whereas

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the cult of the Saints is obligatory, and concerns the entire Church (Benedict XIV, in his work *De Servitiis Dei Beatorum*, Book 1, Chapter 39). Therefore, he wrote in the same place, number 13: "It is certainly within our power... to restrict the cult of the Blessed within a particular province, diocese, city, or religious family." And indeed, this is just and fitting. For if the cult in Beatification were to be considered as pertaining to the entire Church, it would almost be considered a form of sanctification. The Defender of the Faith also wrote in his praised work: "Sometimes the cult can be extended to the entire Church, but not by means of a law of precept, but by a simple permission, and by an act that is far from final or definitive. Therefore, in... the diploma of Sixtus IV concerning the cult of Blessed John of Good, there are not only words permitting and granting the faculty; but also other words are added, which do not yet proclaim a final decision: Until something else has been solemnly ordered by Us or by the Apostolic See. The same must be said of the alleged concession of Clement X for the cult of the then Blessed, now Saint Rose of Lima; since it was granted while the cause for her canonization was still under consideration." Having briefly noted these points, the Promoter of the Faith concluded: "Therefore, it would be easier for the Archbishop of Mechelen and other prelates of Belgium to fulfill their wishes, if an equivalent Beatification had taken place by a decree of the Supreme Pontiff, and if the cause of the virtues and miracles of the Virgin Juliana were to be resumed, and Apostolic investigations were to be held." It will truly be the prudence and doctrine of the Most Reverend Fathers that will determine what must be done for those who deserve it. Indeed, the merits of the Belgian nation are not hidden from them.

[*Latin ed. p. 57*]

OF THE CAUSE OF ST. JULIANA OF CORNELIA, 57, which benefits the Catholic religion and the Holy See. . . Truly, if the Most Reverend Fathers desire to grant indulgences through fervent prayers, it must also be determined by them: whether the presented petition constitutes a new matter, or not, and in what manner. WHAT THE ORATOR WOULD PRESENT. — In Rome, a distinguished Orator was chosen, who first carefully examined the arguments presented on both sides; afterwards, he concluded the case with persuasive arguments. First, the Orator argued that the approval of an ancient cult is not necessarily required in order to grant its insertion into the Roman Martyrology. Pope Benedict XIV, encompassing both those whose ancient cult has been discussed and approved in the Holy Offices, and others who, after the Decretal "Audivimus" (1), are in manifest possession of an ancient cult, which, however, has not been discussed and approved in the Holy Offices, writes in book 5, page 100, chapter 18, number 14: "It is said that the names of these should not be inscribed in the Roman Martyrology, unless the Congregation of Holy Rites, with the approval of the Supreme Pontiff, deems it permissible to grant this to them, not

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only because the prohibition against additions to the Roman Martyrology applies to additions made by private authority, and the Decree concerning those not to be inscribed in the Martyrology, unless they are canonized Saints, speaks of this reason; therefore, it does not exclude a reasonable consultation from the Holy Congregation to be presented to the Supreme Pontiff concerning the inscription of someone in the Roman Martyrology who is in possession of an ancient cult, as Castellinus observes (on the Certainty of the Glory of the Saints, chapter 9, consideration 4, 462, number 10, and number 11); but also because we have examples of both those whose ancient cult was discussed and approved in the Holy Congregation; and of others." (1) Thus, the text of Alexander III is cited, as it is read in the Decretals, chapter 1, concerning Relics and the Veneration of Saints: "We have heard that some among you, deceived by diabolical fraud, venerate a certain man who was killed in drunkenness and debauchery, as if he were a saint (in the manner of the infidels), although the Church scarcely permits prayers for such as have perished in drunkenness, for the Apostle says: 'Drunkards shall not inherit the kingdom of God.' Therefore, do not presume to venerate him further, for even if miracles were to occur through him, it would not be lawful for you to venerate him as a saint without the authority of the Roman Church."

[*Latin ed. p. 58*]

58 CONCERNING THE CAUSE OF SAINT JULIANA OF CORNELIA: "Whose cult, though ancient, has not been immemorially discussed and approved in the Holy Congregation; whose names, however, have been described in the Roman Martyrology due to special circumstances." Although these things were sufficient (so the Orator continued), another response is also available. Indeed, very serious indications from the Apostolic See regarding this matter have already been issued, which, if I am not mistaken, accomplish something greater than a simple declaration of a historical fact, namely, that from time immemorial, a cult has been observed. In the very same 17th century in which the Urbanian decrees appeared, Innocent XII granted treasures of indulgences, by which the faithful are encouraged to piously celebrate the feast day of this Virgin, whom he does not hesitate to call "Saint" (1). Clement XI granted to monks of both sexes of the Cistercian Order the privilege of reciting the Office and Mass of the Virgin Saint Juliana under a double rite. Benedict XIII used his pontifical authority to ensure that the pious Confraternity of Saint Juliana might increase greatly in the Lord, enriching its members with plenary indulgences, and granting the same grace to all the faithful who visit the church of the monastery of Cornelia on the feast day of Saint Juliana. Given these and other things that I pass over, which had been enacted by the highest authorities concerning the cult of Juliana, it is not surprising that Urbanian discipline's defender and advocate, Prosper Lambertini, while serving as Promoter of the Faith,

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wrote without hesitation about Juliana as a "Blessed" one, and bestowed this title upon her in the observations which he composed when the matter of the granting of the Office and Mass in honor of the Most Holy Heart of Jesus was being considered. Indeed, the alleged Pontifical Brief is of the following tenor: "Innocent XII, Pope, to all the Christian faithful who shall read these letters, greetings and the apostolic blessing. With pious charity, intent on increasing the religion of the faithful and the salvation of souls, we, through the heavenly treasures of the Church, mercifully grant to all Christian faithful, truly penitent and having confessed, and having received the holy communion, who, each year, from the first vespers until sunset on the same day, devoutly visit the church or chapel of Saint Juliana on Mount Cornelia, near and outside the walls of the city of Leodiensis... and there offer pious prayers to God, a plenary indulgence and remission of all their sins, which shall be valid for seven years only... Given at Rome... on the 27th of February, 1698."

[*Latin ed. p. 59*]

Regarding the cause of St. Juliana of Cornelion, some argued that the institution of the feast in honor of the Body of Christ was based on a revelation. That defender of the faith, who would become Pope, added: "Indeed, that institution was said to have originated from a revelation made to the Blessed Juliana on Mount Cornelion, but this revelation was examined by Robert, Bishop of Liège, and other bishops" (1.4, p. 2, c. 31, 24). Therefore, this most learned man, elevated to the Supreme Pontificate, in his work on the blessed and canonized servants of God, consistently retained that title for Juliana, and, when the opportunity arose, explained the reasons by which public and solemn worship was demonstrated to be due to her (L 2, c. 12, n. 15, c. 14, n. 7). More significant are the actions undertaken by His Holiness Gregory XVI, when the sixtieth anniversary of the institution of the solemnity of the Most Holy Body was being celebrated (1846). Indeed, not only did he approve the construction of a church in honor of St. Juliana, but, at the request of the Bishop of Liège, he decreed that those faithful who, on the day of the dedication and for the following thirteen days, visited that church and venerated the aforementioned relics of the Saintly Virgin, could obtain a plenary indulgence; the Supreme Pontiff readily granted the requested indulgence. To all of this, His Holiness Pius IX (whom may God long preserve) added, approving those things that had been done under Pius VII, he approved the office in honor of our Virgin for the diocese of Liège, and furthermore, for the diocese of Roermond in the Netherlands, he confirmed with supreme authority the office as a proper office of the cathedral church. Truly, such concessions contain the pronouncement of the highest ecclesiastical authority, by which it is recognized that public and solemn worship is rightly and properly rendered to someone. Indeed, such concessions directly increase and amplify the worship with the sup-

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port of the Apostolic See. Is this not greater than a mere declaration that the faithful, with the tolerance of bishops (sometimes unknowingly to the Apostolic See), have granted ecclesiastical worship to this or that person for three hundred years in a small and obscure town? If this is the case, would it not be unjust to demand a declaration, before the name of Juliana is inserted in the Roman Martyrology, that this is the case, except for the exception? Such a declaration would seem superfluous in these circumstances, since those things for which such a declaration is usually sought have already been granted by pontifical authority for a long time.

[*Latin ed. p. 60*]

60. CONCERNING THE CAUSE OF SAINT JULIANA OF CORNELIA. After these things, the Orator observed that nothing stood in the way of a declaration being issued in this very seat of judgment regarding the exceptional case, should it be necessary to declare it in the presence of those assembled, since abundant documents were readily available, which convincingly demonstrated the cult rendered to our most holy Virgin. Furthermore, the Promoter of the Faith proceeded with another observation as follows: The necessity for an equivalent beatification, as removed from those things which I disputed in the preceding observation by the decree of the Roman Pontiff, is eliminated. Let only this be noted: an equivalent beatification is not only held when it is declared that there is an exceptional case, but also whenever the Supreme Pontiff grants a limited concession of Offices and Masses. This was abundantly demonstrated by Father Andrew Budrioli in the cause of Saint Aloysius Gonzaga; and Benedict XIV affirms this, when, referring to the proceedings in the cause of Saint Teresa, he writes that a report was made to His Holiness Paul V by this Congregation of Sacred Rites, which judged that it could be permitted to grant Offices and Masses for certain designated places, and then (he says) the Pope approved of the request, and issued Apostolic Letters in the form of a Brief concerning the limited concession of Offices and Masses, in which the beatification is included (I. 1, chapter 25, number 10). However, we have the Apostolic Letters of Clement XIV, which grant to monks and nuns of both sexes of the Cistercian Order, the permission to celebrate the feast of and recite, with double observance, the Office and Mass of the Virgin Saint Juliana; and also the Decrees issued with the authority of Pius VII, Gregory XVI, and Pius IX, may they reign happily, by which the Office is approved for the dioceses of Mechlin, Namur, Ghent, Liège, and Roermond. Another condition, which seems to be implied by the Defender of the Faith, is that, after the cause of the virtues and miracles of Saint Juliana has been reopened, Apostolic investigations must be held. But to omit the rest, I will confidently say that nowhere does our law impede the granting of such concessions to this saint, if Apostolic investigations into her virtues and miracles have been undertaken. Indeed, in the cause of Blessed John of God (whose example is

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another cited by Benedict XIV), it appears that the proceedings were never brought forward. In short: that clause, unless otherwise solemnly ordered by Us or by the Apostolic See, does not imply the necessity of a formal canonization.

[*Latin ed. p. 61*]

In the cause of St. Juliana of Corsica, 61, either the proceedings are already underway, or they are extended after the expansion of the cult to the universal Church. Therefore, it remains to inquire how to provide that reasonable counsel (to use the words of Benedict XIV), which we request from the Holy Congregation to be presented to the Supreme Pontiff, so that he may decree that Juliana of Corsica be enrolled in the list of Saints. The doctrine of our law, which concerns those whose names are requested to be inserted into the Roman Martyrology, adheres to this distinction, according to Benedict XIV: "EITHER it concerns those who, before, began to be venerated in the universal Church, not so much by any law, as by custom, with the tacit approval of the Supreme Pontiffs, or those who began to be venerated before the aforementioned Decree, in certain provinces, by the decree of particular bishops, and whose cult has been extended to the universal Church, not so much by any law of the Supreme Pontiff, as by custom received everywhere and approved by the Pontiff himself, with his tacit consent; and as for those who are in this position of venerable antiquity, there is no difficulty in having their names described in the Roman Martyrology, provided that, after the necessary investigations have been carried out in the Holy Congregation of Rites, their names are described in the Roman Martyrology. Indeed, it is not only the names of those who are canonized by the Supreme Pontiffs that should be described in the Martyrology itself; but also the names of others, whose names were not described in the same Martyrology, although they have been canonized by approved methods of the Church. OR it concerns those who are indeed in a position of venerable antiquity, but only after the time of the aforementioned Decree, and whose venerable antiquity has been discussed and approved in the Holy Roman Congregations; and these, although they are called Saints, and although the Mass has been celebrated and the Office recited in their honor, either with readings from the common texts, or with proper readings, are not to be described in the Roman Martyrology, unless, under special circumstances, this is granted to them by the Holy Roman Congregations." (1. 4 p. 2 c. 18 § § . 11, 12). We readily admit that the cult of the Virgin of Corsica began after the publication of the Decree *Audivimus*, and therefore, the Pontifical...

[*Latin ed. p. 62*]

62. Regarding the cause of St. Juliana of Cornelion, it is necessary to obtain permission for her to be included among the older saints; however,

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she is so closely associated with those first mentioned by Benedict XIV that only a brief interval of years (which does not affect the centuries) prevents her from being included with them. Thus, what is usually beneficial to others, namely being born later, seems to be a disadvantage to this most meritorious Virgin of the Church of God. The celebrated decree of Alexander III. is cited by Baronius and dates to the year 1181. Juliana was born in the year 1193; she died on the ninth of April, 1257. Immediately after her death, her body was transferred to the church of the Villariensis monastery, where it was placed after the main altar, along with other relics, or, as the old historian says, "the virginal body was consigned to burial among the bodies of the Saints" (Bollano, April, vol. i, p. 476). The fame of her miracles quickly instilled belief in her sanctity in the hearts of the people; the day of her translation became a feast and a memorable day for Villariensis. Gradually, her cult spread to other lands and regions. And here, let the Fathers understand how much this differs from the cult of the Blessed, which, as noted by Lambertini, the Author of the *Promoter Fidei*, is naturally limited to a certain province, diocese, city, or religious family. Throughout Belgium, with the people of Liège leading the way, she is venerated; solemn honors are paid to her in the dioceses of Mechlin, Namen, and Gent. The people of Antwerp venerate the image of St. Juliana and establish a sodality in her honor. Her name extends to the borders of Belgium, and she is celebrated by the neighboring Bavarians; indeed, in the Ruraemundensis cathedral, her birthday is commemorated with a proper and approved Office. Her cult then spread to the Germans and the French, and her illustrious name is noted in the martyrologies by the Blessed Canisius and Saussaie. A significant portion of her relics was transferred to Italy by Margaret of Parma; and the illustrious Farnese family, and especially Cardinal Odoardo, strive to promote the cult of St. Juliana. The most learned Italians, Galesinus and Ferrarius, call her the Holy and Blessed Juliana. From Italy, her cult spread to the Irish island. King Anthony of Lusitania desires precious relics of her, and in Ulyssipone, the royal officials celebrate the feast of St. Juliana each year with a proper Office and readings, with the approval of the Holy and Most Reverend Congregation. The Spaniard Henriquez becomes a herald of the praises of this pious Virgin among his people, and celebrates her as Blessed. The religious orders of the Cornelion congregation strive to promote the honors of the nuns. The Cistercians, above all,

[*Latin ed. p. 63*]

OF THE CAUSE OF ST. JULIANA OF CORNELIA, 63, which they recount according to their own office. The Prémontré monks include her name in their litanies. The Recollect Franciscans vigorously defend the antiquity of her cult. Very learned men from the Society of Loyola diligently work to make the memory, deeds, and cult of that saint more evident and

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widespread among all learned men. Nine Roman Pontiffs, not by tolerating, but by solemnly intervening with their authority, confirm and expand the cult, which was already widely practiced. If the Constitution of Alexander III. had appeared eighty years later!, certainly our Juliana would be among those, as taught by Benedict XIV, who rightfully claim the inscription in the Martyrology, since they have been canonized by some method approved by the Church. But as long as we remain in these difficult times, do not all know that the discipline of the Church in this matter has not been changed at any single moment? Until the passing of the centuries, there were those who maintained that not all bishops had been given the general law promulgated by Alexander III. "Whether," (writes the learned Benedict XIV), "the power of beatifying has been entrusted to all bishops for execution, we confess that we greatly doubt, perhaps because Alexander, in his Decree, did not speak generally, establishing that no one could publicly celebrate the cult without the authority of the Apostolic See, but restricted the matter to a deceased man killed while drunk, saying: 'even if miracles were to occur through him, it would not be permitted to him, etc.' Therefore, it could have happened that some bishops did not think that this should be transferred from that particular case to other cases very different, etc." Then he continues, arguing and citing examples and authorities, by which it is shown that, after Alexander and after Innocent III, the old discipline persisted in many places, until all and every controversy was resolved by the Bull of Urban VIII (lib. 1, cap. 10, n. 8). Therefore, that term and almost limit, which is established in the year in which the Decree *Audivimus* was issued, to preserve the old and new rite of canonization, should not be strictly observed as a day of reckoning, but morally and, as the ancients said, *de maximis*, because the discipline was not changed at any single moment in time. It is more appropriate in our case, in which, before Urban III, the propagation of the cult of Juliana took place through the consent and ratification of the Roman Pontiff by the Cardinal of the Holy Roman Church.

[*Latin ed. p. 64*]

64. CONCERNING THE CAUSE OF ST. JULIANA OF CORNELIA. What we have said concerning time, understood morally, may also be said concerning places. Someone might perhaps object that the cult of Juliana has been extended to the entire Church. We acknowledge this, and therefore we advocate for its extension. But how many among the Saints, whom we call ancient, have had their cult spread throughout the entire Catholic world, according to the strict meaning of the word? If Juliana was honored in Rome by the Supreme Pontiffs, and if she was venerated by the Portuguese, the Belgians, the Bavarians, and the Italians with the greatest devotion; if she was counted among the Saints by the Gauls and the Spaniards; if she is recorded in the martyrologies of the Germans; we

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will not hesitate to ask whether her name has perhaps not yet been found in the menologies of the Syrians and the Melchites. If Benedict XIV had wished to understand this, he would have wanted to mark the book of the martyrology with seven signs, so that no one would ever again be able to doubt the inscription. Therefore, if it can still be demonstrated, and if a place of honor can be given to another name, let this be given to the most illustrious Virgin, whose memory is joined with the solemn celebration of the Feast of the Body of Christ, which is devoutly observed throughout the Catholic world, and even in those regions where the infidels hold sway. This very celebration contains a perpetual demonstration that Juliana was truly accepted by the Divine Spouse, and was adorned with heavenly graces. She herself declared that God wished that the Institution of the Most Holy Eucharist be especially and solemnly celebrated in the Church each year. Yet, now the seventh century has passed, and the feast day is celebrated annually by the entire Church. Time, which destroys human comments and disperses the plans of mortals, confirms that the decree of the Divine Will has truly been fulfilled. The Council of Trent called this celebration the most holy institution; may the entire Church, once again united, be able to restore that holy observance, to which such solemnity was first and foremost given! Therefore, the cause proposed and discussed in the meetings of the Sacred Congregation of Rites on July 3, 1869. The Sacred Congregation decided: To petition the Most Holy Father for the granting of an Office and a Mass to each Ordinary who requests it; concerning the Office and the Mass, to the Most Eminent Pontiff with the Promoter of the Faith; as will be evident from the decree, which I will refer to below.

[*Latin ed. p. 65*]

65. CONCERNING THE OFFICE AND MASS OF SAINT JULIANA OF CORNELIA, APPROVED BY THE HOLY SEE FOR ALL ECCLESIASTICAL SUPERIORS WHO WISH TO CELEBRATE HER FEAST. April 5th: On the Feast of the Blessed Virgin Juliana, the following is to be said: two readings from the Common of Virgins, with the following additions.

PRAYER. "O God, height of the humble, who wonderfully inflamed the Blessed Virgin Juliana to promote the worship of the Most Holy Sacrament: grant, we beseech Thee, that we may follow in her footsteps in humility, that with her we may deserve to be exalted in heaven. Through our Lord, etc."

In the first Nocturn, after the 40th Lesson from Scripture, the following is to be said.

LECTURE IV. "In the year of the Incarnation of Christ one thousand nine hundred and thirty-three, the Blessed Juliana was born in the humble town of Retinna, near Liège, of parents distinguished for their piety. Orphaned at the age of five, she spent her formative years under religious discipline in the monastery on Mount Cornelia, near Liège. There, aided by the Holy

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Spirit, she progressed so much that she seemed to have reached the summit of all virtues. Having strictly professed the rule of Saint Augustine, which was observed in that monastery, and having been appointed superior of her sisters, she drew all eyes upon herself through her austere and holy way of life. Outstanding were the things revealed concerning her love for God and her neighbor, her humility, obedience, piety, and abstinence, as well as her devotion to prayer and her heavenly charisms.

LECTURE V. "As she approached the sacred Synaxis, filled with an incredible sense of piety and gifts of grace, she frequently saw her heavenly spouse hidden under the Eucharistic species; she prostrated herself in adoration, and urged all to adore Him, so that God, who chooses the weak of the world, wonderfully inflamed the humble Virgin to promote the worship of the Most Holy Eucharist!" Acts, volume V, page 5.

[*Latin ed. p. 66*]

66 CONCERNING THE CAUSE OF SAINT JULIANA OF CORNELION: For, having prostrated herself before the august Sacrament, she divinely understood that a special solemnity of the Body of Christ should be instituted in the Church. Having declared this to pious and learned men, these, after carefully examining the matter, and with Juliana urging them, brought Robert, the Bishop of Liège, to institute this feast in his diocese; which afterwards Urban VIII, formerly the Archdeacon of the cathedral of Liège, approved by Apostolic authority and extended to the entire Church.

LECTION VI. "After the death of the Bishop of Liège, Robert, Juliana fell into many and grievous tribulations: for, being expelled from the monastery along with her sisters by impious factions, she lived for a time in extreme need, until, being received into the monastery of Salsines, she found some respite from her grievous afflictions. But again disturbed by peace due to encroaching wars, and with the monastery of Salsines itself dispersed, she was taken to the town of Fossae, and shortly afterwards was seized by a deadly illness, which, as it worsened, she received the most holy Body of Christ in the church of the collegiate town as Viaticum, with a special fervor of heart. Then, being taken back to her cell and anointed with holy oil, with her eyes fixed upon the Most Holy Sacrament of the Eucharist, she peacefully fell asleep in the Lord in the sixty-sixth year of her age. Juliana's body was transferred to the monastery of Villers of the monks of the Cistercian order, as she had requested, where it shone forth with miracles."

DECREE: "That the veneration of our most beloved Savior hidden in the Eucharist may grow, flourish, and spread more and more in all places, the Most Serene Queen of the Belgians, as well as the Most Reverend Archbishop of Mechlin, and the Bishops of Belgium, at the supplication of devout prayers, have requested that the feast, with its Office and Mass, in honor of the Virgin Juliana of Cornelion, now called Saint, which, by Apos-

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tolic Indult, is celebrated annually in the same kingdom and elsewhere, be extended to the entire Church, so that she may be adorned with greater and more abundant honor, who, with extraordinary fervor of charity, was the first of all to desire that the solemn feast of the Body of Christ be instituted in the entire Church, and who, to the best of her ability, worked for it. Their Lordships humbly offer these prayers to His Holiness."

[*Latin ed. p. 67*]

CONCERNING THE CAUSE OF ST. JULIANA OF CORNELIA: 67, having received them most graciously, she deigned to forward them to the Ordinary Congregation for Sacred Rites. These [documents] were then presented today at the Vatican, after a report was heard from the Most Reverend and Right Reverend Cardinal Hannibal Capalti, appointed to oversee this Cause, and after considering that the public cult of the aforementioned Blessed Juliana had been practiced for a long time in several regions of Europe, and had been repeatedly approved by the Roman Pontiffs, either through permission for the distribution of relics, or through grants of Indulgences, or even through the granting of an Office and Mass. It was therefore deemed necessary to write to the Holy See, requesting that an Office and Mass be granted to each Ordinary who requests it; concerning the Office and Mass, it should be submitted to the Most Reverend Promoter, along with the Promoter of the Faith. On July 3, 1869. "After the aforementioned matters had been reported to the Most Holy Father, Pope Pius IX, by the undersigned Secretary, His Holiness approved and confirmed the Decree of the Sacred Congregation; and approved the aforementioned Office with Mass, to be assigned perpetually in honor of the same Blessed Juliana, in all dioceses in which it may be granted in the future, under a lesser double rite, on the day following the fifth of April, which is marked in the diocesan calendar as a free day, free from any feast, with nine readings, and with the other rubrics observed." On the 8th of the same month and year. C. Episc. Port., and S. Rufinae, Cardinal PATRIZI, S. R. C., Prefect. The Reverend Father Bartolini, Secretary. FROM COLLECTED QUOTES: I. The established discipline is that the Servants of God are canonized and added to the list of Saints through a solemn and definitive decree of the Roman Pontiff. II. However, this discipline, concerning its substance, is very ancient, although the authority of the Roman Pontiff has not always been exercised with the same solemnity (1). (1) I do not see the reason why it is said that those Saints who, as such, were considered to be, by the common consent of the Church, before the aforementioned Decree of Alexander III., were rightfully to be included in the Martyrology, and not those who, after that Decree, might be canonized in the same manner: for

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Alexander III., in that Decree, did not establish anything new, but rather...

[*Latin ed. p. 68*]

68 ON THE CAUSE OF ST. JULIANA OF CORNELIA. Many Saints have been venerated by the Church as if canonized, those who have been so regarded by the common consent of the Church, and therefore are inscribed in the list of Saints (1). IV. After a solemn decree of canonization has been issued, it is also fitting that the feast of the canonized be celebrated throughout the universal Church with a double rite; and this has not always occurred in the past; therefore, the Office and Mass of many Saints (who are considered canonized by the common consent of the Church) are not celebrated in many churches, or at least are not celebrated with a double rite (21). He [the author] merely mentioned them as if they were known to all through those words: even if miracles were worked through them, it was not permitted to venerate them as Saints without the authority of the Roman Church. This principle must be repeated from another, more general one, according to which, in matters of the Church, the definitive judgment exclusively belongs to the Apostolic See. But that decree obtained new vigor and a new extension in the Church after Gregory IX placed it in his collection, which collection, having been established as an authentic codex of canon law, perhaps gave rise, through the interpretation of jurists, to a more rigorous discipline gradually being introduced in these matters. After this prohibition was made, that in the Martyrology only those who had been duly canonized should be described, those secondarily canonized by the consent of the Church, if they exist, were not excluded by any law, but rather were considered. (1) When we say "by the common consent of the Church," we do not mean (God forbid!) a headless Church, but the Church united with its Head, which we profess in the Creed to be one, holy. Urban VIII did not wish these Saints to be included in the celebration of the prohibition decree issued on March 13, 1625, declaring that, by the aforementioned, he did not intend to prejudice in any way those who... are venerated by the common consent of the Church... (2) Compare the case presented by the Bishops of Gaul for elevating the feast of the Saints Joachim and Anne, and for prescribing it throughout the Church; which case I mentioned in Vol. III, page 478. Boniface VIII seems to have been the first Roman Pontiff to extend the Office and Mass of certain Saints to the entire Church by a special decree, as can be seen from chapter "Gloriosus," on Relics and the Veneration of Saints, in the 6th: in that chapter, because of the most outstanding merits of certain Saints for the Church, he decreed: "Therefore, moved by pious counsel, and spurred on by worthy endeavors, we earnestly intend to imitate some of our predecessors, the Roman Pontiffs, who, following a special devotion, have ordered the feasts of some Saints to be celebrated with a double Office; therefore, the principal feasts of the Apostles, Evangelists, and Confessors (with the counsel and consent

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of our brothers), we wish, decree, and command to be solemnly celebrated throughout the churches of the world, every year, for all time to come."

[*Latin ed. p. 69*]

ON THE CAUSE OF ST. JULIANA OF CORNELIA: 69. It is likewise maintained that the discipline remains in force, according to which the solemn Decree of Canonization is not to be issued until after the Decree of Beatification. VI. Furthermore, there exists a distinction between the two, in that the Decree of Beatification does not constitute a definitive judgment of heavenly and earthly glory, but rather serves as a preparation for it. VII. Therefore, the Office and Mass which are granted by the Holy See are nothing other than a special indulgence granted only to those persons or places to whom it is granted, and which can also be revoked and annulled. VIII. Are there not also many ancient Servants of God to whom devotion is granted from ancient times in certain churches, and who are considered by the Holy See to be Blessed, whenever there is evidence of an enduring devotion? Therefore, the celebration of the Office and Mass is granted or permitted to them by the Holy See (1). (1) The discipline currently in force can be ascertained from the following Decree of the Sacred Congregation of Sacred Rites, published on December 9, 1628, in the case of Genen. In it, it was explained to the Sacred Congregation: "In the Canonization Bulls, the following words are placed: 'We decree that, from the universal Church, on each year on the day N, the feast of the said [Saint] and the Office, as for a Martyr, or Confessor, etc., be celebrated devoutly and solemnly according to the form prescribed in the Rubrics of the Roman Breviary.' From these words it is clear that an absolute and unrestricted license is granted to recite the Office in all churches for all canonized Saints; and using such an interpretation, in some dioceses, Ordinaries and Chapters admit the Saints they favor, and the Office is recited for them." The question was then asked: "Can Ordinaries and Chapters, at their own discretion, recite the Office for canonized Saints who are not listed in the Calendar, even if they are not the patrons of such dioceses, nor do the bodies or notable relics of them rest in them?" To this, the Sacred Congregation replied: "The faculty granted in the Letters and Bulls of Canonization to celebrate the feast of a canonized Saint and to recite the Office for him cannot be exercised except and only in the manner and form specifically permitted by the Apostolic See and the Sacred Congregation; therefore, such a declaration and Decree are necessary. Therefore, neither the Ordinary nor the Chapter, nor others, can recite the Office for canonized Saints who are not described in the Calendar, or who are not the patrons of churches, or whose notable relics are not present." (1) The Sacred Congregation was asked in the case of Visen, on June 11, 1605: "Can the Office for the Commemoration of Saints be recited in the Church of Visen, whose feasts have been customarily celebrated from time immemorial, although they have not been canonized, such as St. Elizabeth,

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Queen, St. Theotonius, and others of a similar nature?" The answer was: "Affirmatively, provided that there is an enduring custom."

[*Latin ed. p. 70*]

70. CONCERNING THE CAUSE OF ST. JULIANA OF CORNELIA. IX. However, nothing prevents such a circumscribed cult from gradually spreading throughout the entire Church; not indeed through a general decree of the Holy See, but through particular concessions and indulgences. X. Such an extension can reach the point where this Blessed one, as if canonized as a Saint through the common consent of the Church, should be considered as such, and ultimately be described in the Roman Martyrology. XI. In the present matter, action has been taken concerning a Virgin, whose cult, although indirectly admitted and recognized by the Holy See, has not yet surpassed the degree equivalent to Beatification. XII. The present decree has created the possibility that, through a wider consent of the Church, the degree equivalent to Canonization can easily be attained by the Blessed Virgin Juliana (i). (1) It would indeed be desirable that we might first venerate among the Saints those two Virgins who have merited the Church so well, of whom one began to promote the most solemn feast of the most august Body of Christ in the Church, and the other the most sacred Heart of Jesus, of whose cult the entire Church now rejoices; I say, both of them, so that the first might attain the same degree of honor through the common consent of the Church, and the second through a solemn decree, which we await.

[*Latin ed. p. 71*]

CORDERIO. CONCERNING THE CANONIZATION OF BLESSED JOHN BAPTIST DE LA CONCEPTION, FOUNDER OF THE ORDER OF THE MOST HOLY TRINITY FOR THE REDEMPTION OF CAPTIVES. THE DECREE OF THE HOLY OFFICE FOR THE REDEMPTION OF CAPTIVES: "Since it is necessary to deliberate in the Ordinary Session of the Congregation of Sacred Rites concerning the validity, by Apostolic Authority, of the two processes instituted in Palestrina and Rome, concerning new miracles, which are said to have been wrought by God the Most High through the intercession of the aforementioned Blessed John Baptist de la Conception, the Most Eminent and Reverend Cardinal Aloysius Bilio, Promoter of this Cause, at the urging of the Reverend Father George, a Priest of the Virgin, of the aforementioned Order, and Postulator of the Cause itself, proposed the following question at the Ordinary Sessions of the Congregation of Sacred Rites held today in the Vatican: 'Does it appear that the processes instituted by Apostolic Authority, both in Palestrina and in Rome, concerning the aforementioned new miracles of the Blessed One, are valid; were the witnesses examined properly and correctly, and were the testimonies produced legitimately

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and to the point concerning the matter in question?' The Most Eminent and Reverend Fathers entrusted with the preservation of the Sacred Rites, having carefully considered all matters, and having heard the Reverend Father Peter Minetti, Promoter of the Holy Faith, responded as follows: 'Affirmatively, except for the extrajudicial documents obtained in the process in Palestrina, which should be considered as supplementary evidence.' July 3, 1869. "Subsequently, a faithful report on the foregoing was made to the Most Holy Pope Pius IX by the undersigned Secretary, and His Holiness approved and confirmed the judgment of the Sacred Congregation. July 8, of the same month and year." C. Episc. Portuen. and S. Rufinae. CARDINAL PATRIZI, S. R. C., Prefect. [Signature of D. Bartolini, Secretary].

[*Latin ed. p. 72*]

FROM THE HOLY CONGREGATION CONCERNING THE DEPRIVATION OF A PARISH, on July 27, 1867, September 12, 1868, and September 4, 1869. Summary of the Case. Joseph, having fulfilled the office of parish priest, whether as administrator or as vicar, in various parishes of the diocese of N., finally accepted the position of parish priest in a certain town in the year 1847. He served as parish priest for nearly eight years under the late Bishop, and for four years under the new Bishop. In the year 1859, due to complaints brought before the episcopal curia, either concerning the negligence of this parish priest in ecclesiastical duties, or concerning a lack of suitability, or finally, concerning suspicion of a dishonorable life, the Bishop entrusted the office to a certain Dean of the same place, to negotiate with Joseph regarding a voluntary resignation from the parish. This man declared that he would resign from the parish; moreover, he added: "I reserve the right to first approach the Bishop to discuss the terms." Subsequently, when the negotiations concerning the terms had failed, and the parish priest (who, for reasons of failing health, had not previously agreed to resign from the parish) became certain of the aforementioned accusations, he appealed to the provisions of the Council of Trent, Chapter 6, Session 21, concerning Reforms. In the meantime, the Bishop had consulted with the civil government regarding the assignment of a pension to the parish priest; and the civil authority declared itself prepared to grant a pension of ten dollars per year for a single year, for the reason that, due to pre-existing illnesses, the intellectual faculties of the parish priest sometimes appeared to be deficient; and yet, the services rendered by him in past years had not been devoid of merit. The Ordinary, taking no other action, on January 3, 1861, issued a Decree of deprivation from the parish. Those things which I noted in that Decree are reduced to these main points: namely, the Bishop stated that, from his very entrance into the diocese, he

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had received

[*Latin ed. p. 73*]

The parish of Privation has received repeated complaints due to numerous faults and imprudences, by which Joseph had generally lost the esteem of the parishioners, and had aroused aversion among them through his crude manner of acting; therefore, it is necessary to promptly consider providing assistance to that parish, which was certainly not insignificant, in order to repair the daily harm caused by the wicked morals of the people. "If the Parish Priest had not already been warned by the Dean to seriously consider his unsuitability for the care of souls, and, having become aware of this, he spontaneously resigned the parish, no further action would be taken. " The Parish Priest had shown the Dean his desire to relinquish the parish, but shortly thereafter he revoked his promise, and invoked the decree of Trent, session 21, chapter 6, concerning reforms, which provides that provision should be made for inexperienced parish priests through coadjutors. "But that decree refers in its first part to parish priests who are inexperienced, but endowed with good morals; in its second part, it considers parish priests whose manner of acting is subject to criticism, as is also indicated in chapter 14, session 25, concerning reforms, and there it is also stated that the deprivation of a benefice can be carried out without clamor and without formal judgment, after the truth of the matter has been ascertained. " The Parish Priest had already been informed that, if proceedings were to be initiated to investigate the individual faults imputed to him, his dismissal from the benefice would necessarily follow; therefore, he was again invited to voluntarily relinquish the parish; but he did not respond, but rather indicated that he was prepared to submit to the judgment of arbitrators in order to obtain the requested pension; and, after being subjected to an examination by physicians, he was unable to obtain a certificate of absolute physical impotence. "But there are other reasons that render Joseph truly unsuitable for the care of souls; especially considering that parish, which requires that he be promptly assisted, as the people have often requested. " Given these circumstances, he considered it to be within his power, according to the sacred canons and, in particular, according to the Tridentine provisions indicated above, to relieve the Parish Priest of his duties. " However, having been allocated 210 florins by the civil authority for one year, he could not refrain from relieving Joseph of his parochial benefice, and appointing an administrator to that vacant parish."

[*Latin ed. p. 74*]

74. THE PARISHIONERS' GRIEVANCES. Disregarding the Bishop's decrees, the parish priest appealed to the Metropolitan; who, without conducting any legal inquiry, decided to uphold the Bishop's decree, stating: "Considering the decrees of the Council of Trent, sessions 21 and

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25 concerning reforms, I reject your appeal, and I order you to comply with the ordinances of the Most Reverend Bishop of Usküb." Finally, omitting other details, Joseph appealed to the Holy See, invoking the decrees of the Council of Trent, especially the first part of chapter 6, session 21, concerning reforms. Upon being questioned for information, the Bishop described Joseph's academic progress in the seminary, stating that it had not been particularly impressive; he also stated that Joseph was 55 years of age. He then detailed all the pastoral duties performed by Joseph from the year 1842, when he was ordained a priest, and described the parish priest's character, stating that he had not maintained a good reputation in the parish residences due to his unsuitability, especially due to his rough manner and his desire to create disturbances. While serving in the parish of G. in 1844, a scandal occurred in his house due to the pregnancy of his sister, and he was suspected of being involved. But, in addition to the above, recently there have been complaints against him from the parish he served; which he detailed individually: 1° that he celebrated the Sacrifice of the Mass most negligently, from which it appeared that he rather scorned the divine worship, especially due to certain nervous irritations that afflicted him; 2° that he was constantly distracted, whether during the Sacrifice of the Mass or in other liturgical actions, especially when distributing the Holy Eucharist, and he often scattered the sacred hosts; 3° that he did not appear decently in the church, as was fitting; 4° that his sermons were not suitable for instruction, since he abused the sacred place to vent his anger; 5° that he negligently fulfilled the obligations of Masses; 6° that he did not observe any schedule or order in the sacred functions; 7° that due to the lack of a sacristan, the church was in disarray; 8° that he used inappropriate names, addressing both children and adults; 9° that he did not stand during the school hours, but sat on a bench; 10° that he publicly reprimanded both the teacher and the teacheress with impolite and harsh words; 11° that in 1857 he was shamefully caught by the wife of his brother with a young girl; 12° that he improperly pursued another woman; 13° that he truly violated another woman.

[*Latin ed. p. 75*]

PRIVATIONIS PAROECIAS 75 washed in his own house: 14° that, finally, there would be a familial disagreement with his father and brother, to the scandal of the people... Furthermore, he noted that these accusations, especially those pertaining to his own office, were notorious even outside the parish; and that accusations against morals, recounted by the office of the deanery in the year 1857 through investigations, could have been confirmed by trustworthy witnesses, and that other defects of the same kind could have been easily detected. However, since the lack of suitability was notorious, in order not to increase the scandals, he had instructed the Dean to take the greatest care that the Parish Priest would voluntarily leave the

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parish. These and other similar matters came from the ecclesiastical court. A synopsis of the discussion. DEFENSE OF THE PARISH PRIEST. The Parish Priest appointed an advocate for his defense in Rome, who stated that the accusations against the Parish Priest had initially arisen from hatred and vengeance of enemies; that he had these enemies because, from his own office, he had formerly rebuked them; and that the new Bishop had even been urged, upon assuming the diocese, to inquire about the Parish Priest; and that the Bishop had investigated with the help of a man who was extremely hostile to the Parish Priest; he further adds that the appeal made by the Parish Priest was rejected by the Metropolitan without any form of judgment. With these premises, he challenged the Bishop's Decree, arguing that it was issued without any canonical form, and that it was neither just nor equitable. Regarding the first point, the advocate invoked the Constitution of Innocent III, which is read in the Decretals, chapter 23, concerning Accusations. We quote it in its entirety, as it contains the norms by which the Judge must conduct himself in these matters. Thus, the constitution, issued in the general Lateran Council, reads: "How and when a Prelate should proceed to investigate and punish the excesses of his subordinates is clearly gathered from the authorities of the Old and New Testaments; from which later came the canonical sanctions, as we have openly distinguished before, and now confirm with the sacred approval of the Council. It is read in the Gospel that that steward, who was defamed before his lord as having wasted his goods, heard from him..."

[*Latin ed. p. 76*]

76. CONCERNING THE PAROCHIAL INVESTIGATION: "What do I hear about you? Give an account of your administration; for now, you will no longer be able to administer [the parish]." And in Genesis, the Lord said: "I will descend and see whether they have accomplished their work, as they have cried out." From these authorities, it is manifestly proven that, not only with a subject, but also with a Prelate, if a complaint has reached the ears of a superior through clamor and reputation, it is not from the malicious and slanderous, but from prudent and honest individuals, and not only once, but often; therefore, the elders of the Church ought to diligently investigate the truth, so that (if the quality of the matter demands it), the canonical district may bring the blame upon the delinquent: not as if he himself is the accuser and judge, but as if, through the report of reputation, or the clamor, he fulfills the duty of his office. However, this must be observed in subjects; it must be observed even more diligently in Prelates, who are placed as if to be targets. And because they cannot please everyone, since by their office they are bound not only to accuse, but also to reprehend; and sometimes to suspend, and even to excommunicate, they frequently incur the hatred of many, and suffer persecution. Therefore, the Holy Fathers have prudently decreed that the accusation of Prelates should

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not be easily admitted, lest, if the pillars are shaken, the building collapse, unless diligent caution is used, by which not only false, but also malicious accusations are prevented. But they wished to provide for the Prelates, so that they might not be unjustly accused, so that they might also take care not to sin presumptuously, encountering, as it were, a remedy for both diseases: namely, that a criminal accusation, which aims at the diminution of rank, that is, degradation, unless it is legitimate, is in no way admitted. But when someone has been infamous for his excesses, so that a clamor arises, which cannot be dispelled without scandal, or tolerated without danger, without any doubt, an investigation and punishment of his excesses must proceed, not from the foment of hatred, but from the affection of charity; and if the excess is grave, although he is not degraded from his order, he should nevertheless be completely removed from administration; which is in accordance with the evangelical saying: to remove the steward who is unable to give a proper account of his administration. Therefore, he against whom the investigation is to be made must be present, unless he is absent through contumacy; and he must be given an explanation.

[*Latin ed. p. 77*]

PRIVATIONIS PAROECIAE 77 "Let the chapters, concerning which inquiry must be made, grant him the ability to defend himself; and not only words, but also the very names of witnesses are publicly declared (so that it may be clear what and how it was said); nor shall exceptions and replications be unlawfully admitted; lest, through the suppression of names, infamy be caused; and lest, through true exclusions, false audacity be given.

Therefore, the Prelate must strive all the more diligently to correct the excesses of the Subordinates, inasmuch as their incorrect offenses are so reprehensible. Against those who have committed notorious excesses, although there are three ways in which proceedings may be taken, namely, by accusation, denunciation, and inquiry itself; nevertheless, the utmost care must be taken in all things, lest, perchance, through a slight detriment, a grave loss may occur: just as a legitimate inscription must precede an accusation, so also a charitable warning must precede a denunciation, and a clamorous insinuation must precede an inquiry: always using this moderation, so that, according to the form of judgment, sentences also may be pronounced in due form. However, we do not believe that this order must be strictly observed against those who, when the cause requires it, can more easily and freely be removed by their own superiors.

Alleging various parts of this constitution, the Advocate argued that, in the present case, it had not been observed in any way, since Joseph, against whom an inquiry was to be held, was not present, nor were the words or names of the accusing witnesses notified, nor was there any form of evidence, nor any proof of the asserted crimes; therefore, the removal of the Parochian, being thus effected, should be equated with spoliation; and

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therefore, the parish, with the revenues received by him, should be restored to him according to chapter 7, concerning the Restoration of those who have been despoiled, in which Alexander III. responded to the Archbishop of Canterbury in a similar case: "To Reginald, our cleric, we have learned that you have despoiled the church of Vuefort without judgment. Since it is no longer fitting for your honor to despoil clerics of your jurisdiction without manifest cause and reasonable grounds, whom you should assist with paternal care, we command that, if this is the case, you restore the aforementioned church and the revenues derived from it to the aforementioned cleric, and allow him to possess it in peace.

"However, after the restoration has been made, if you wish to propose anything against him concerning the aforementioned church, you may, through the Bishop of Exeter, delegated by Us to you, or through your sufficient and responsible representative, experience it with the same Reginald in due order."

[*Latin ed. p. 78*]

78. CONCERNING THE DEPRIVATION OF A PARISH: In the second place, the Advocate, speaking specifically of the injustice of deprivation, argues that if the deprivation were enacted due to offenses considered under the law, the prescribed degrees of punishment, as outlined in chapter 6, sections 21 of the Council of Trent, would not have been observed. There, it is stated: "Those who live shamefully and scandalously, after having been warned, should be restrained and punished; and if they still persevere in their wickedness, they should be deprived of their benefices, according to the constitutions of the sacred canons." And this same disposition has been consistently applied by the Sacred Roman Rota and the Sacred Congregation. Therefore, if the alleged crimes were indeed committed, but the prescribed degrees of punishment were not observed, the sentence of deprivation would have been invalid. Nor could one be condemned to such a penalty for minor offenses, since no one should be deprived of a benefice except for serious crimes, and those crimes must be expressly stated in the law. Furthermore, if it were claimed that the deprivation was caused by infirmity or inability, this would also be without merit, since, according to the Council of Trent in the aforementioned chapter 6, section 21, provision should be made through a coadjutor or a vicar: "Because uneducated and inexperienced Rectors of parochial churches are less suited for the sacred offices, and others, because of the wickedness of their lives, destroy rather than build up, Bishops, even as delegates of the Apostolic See, may appoint coadjutors or vicars for a time to such uneducated and inexperienced individuals, if they are otherwise of honest life, and may assign them a portion for a sufficient livelihood, or otherwise provide for them." However, the Advocate contends that the alleged crimes were minor offenses, and that the parish priest was falsely accused of being unfit. He argues that it is

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impossible to call a man uneducated and unfit who, after completing a course of studies with honor, had exercised pastoral care in various places for twenty-seven years. Furthermore, he argues that minor offenses either do not exist, or are of such a nature that they easily merit forgiveness, since even the most pious men can fall into such transgressions. Finally, the Advocate opened his argument to exclude the alleged offenses against honesty, doing so both in general, due to the testimony of outstanding men, and in particular, by discussing each accusation individually.

[*Latin ed. p. 79*]

PRIVATIONIS PAROECIAE 79. Question: "Whether it is established by law regarding the causes for removal from a parish, or rather, whether it is 'a matter for consideration in this case'."

RESOLUTION. The Sacred Congregation of the Council, having considered the matter debated in the meetings held on July 27, 1867, judged it fitting to respond as follows: Negatively, regarding the first part; concerning the second, after considering the declarations issued by the Priest (Joseph), it is postponed, and it should be written to the Bishop for his opinion.

PROCEEDINGS REGARDING THE CAUSE. Since the intention of the Sacred Congregation was that the Bishop should propose means by which Joseph could be provided for with a suitable pension of 250 florins per year from the date of his removal, and this intention was made known to the Bishop, the Ordinary took steps to have Joseph granted this pension by the civil authorities. However, since such efforts proved fruitless, and the Ordinary also sought to initiate proceedings against the Parish Priest through three Apostolic Notaries, the cause was again presented to the Sacred Congregation on September 12, 1868, at which time new letters from the Bishop were considered, along with the expenses incurred. The following question was then proposed: "Whether one should adhere to or retract from the decisions made in this case." A response was issued: "Postponed until the next meeting, and it should be written to the Bishop for his opinion."

PROCEEDINGS REGARDING THE CAUSE. Again, the Bishop was written to by order of the Sacred Congregation: The Sacred Congregation earnestly desires that the Ordinary not delay in inquiring and proposing a method by which the Parish Priest can be provided with a suitable pension, and that he should transmit to the Congregation the current active and passive state of the parochial benefice in question (stating, of course, the annual revenues, including uncertain expenses and burdens); furthermore, he should state what portion of the revenues has been assigned to the Economus thus far, and finally, what portion of the pension can be imposed upon the parish and upon the lands, whether derived from the government or from other sources, so that the pension that is to be assigned to the Priest (Joseph) may be deemed suitable.

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The Ordinary, complying with these instructions, replied in writing. He presented the entire case again in his letter, which was printed and presented to the Sacred Congregation on September 4, 1869; and again, the following question was proposed: "Whether one should adhere to or retract from the decisions made in this case." The response issued was: "Adhere to the decisions, for the time being, and further."

[*Latin ed. p. 80*]

80. CONCERNING THE DEPRIVATION OF A PAROCHIAL VICAR.

From which [points] one may gather:

I. That to canonically deprive a Parochial Vicar from his parish, a canonical cause and a canonical form of procedure are necessary.

II. That grave accusations and complaints brought against a Parochial Vicar to the curia must be considered simply as the words of the accuser, which ought to move the judge not to judge, but to inquire into their truth.

III. That an investigation must be carried out through a canonical process concerning the accusations, so that their truth may be established, with the accused being allowed to offer a defense.

IV. That not all offenses, even if proven, constitute a canonical cause for depriving a Parochial Vicar from his parish.

V. Furthermore, certain offenses, although they may ultimately be suitable for depriving a Parochial Vicar, do not constitute a sufficient cause for deprivation unless prior admonitions have been given, by which the Parochial Vicar might be corrected.

VI. Therefore, it would be futile to institute a canonical process to deprive a Parochial Vicar if those offenses had occurred in the past.

VII. That a detected inability of the Parochial Vicar does not constitute a cause for deprivation, since deprivation carries with it a severe penalty.

VIII. However, a Parochial Vicar who is unable in some way may be removed by a coadjutor or vicarius appointed to him, who shall receive a suitable portion from the revenues of the parish or from other sources.

IX. In the present matter, the accusations and complaints against the Parochial Vicar were held by the curia to be almost proven; and those same [accusations and complaints], although they may have been proven, were no longer suitable for depriving him.

X. The Holy Congregation, having considered the declaration of the Parochial Vicar, permitted his removal, but in such a way that a suitable and perpetual pension should be assigned to him in some manner.

[*Latin ed. p. 81*]

ON MARRIAGES. May 29, 1869, and August 21, 1869. Summary of the

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case. Anthony, intending to enter into marriage, presented a petition to the court, alleging an impediment that should not prevent the marriage, concerning Lucy, who was already of sufficient age, asserting that Anthony had given her and she had promised him a mutual pledge of marriage. A dispute arose between them, and after the woman presented her claims, and the man also presented several witnesses, and after these were subjected to a formal examination, on April 25, 1867, the court issued its judgment, in which it was declared: "that the aforementioned Anthony should not be granted permission to contract marriage with any other woman, and furthermore, the firm order forbidding him from marrying, issued by this court on February 22, 1867, remains in effect." Anthony appealed this judgment to the Holy See, and, having presented a petition, he requested the Most Holy [Father], "that he would deign to appoint judges in a second instance... in that diocese, to examine the procedural records, and, if necessary, to admit other evidence beyond that alleged in the first instance... He stated that this was necessary to avoid the costs of the lawsuit, which he could not bear, and which would necessarily be required to sustain the case in the Roman tribunals." Both were from the island of Melita. The Bishop, having been asked, supported Anthony's request; however, the Sacred Congregation responded as follows: "Regarding the appointment of a judge in the region, it is not advisable, and write to the Bishop, instructing him to transmit the procedural records, to advise the woman to pursue her rights, and to instruct the petitioner to present the documents and evidence mentioned in the petition. Furthermore, in cases of poverty, the Sacred Congregation does not fail to protect the rights of the weaker party, according to the law." As was fitting, everything was done, and the records of the process were transmitted. Subsequently, neither the man nor the woman presented anything relevant to the matter, except for a document in which the woman stated her objection in these words: "An appeal was made from the judgment of the Episcopal court on May 6, 1867, and the records of the process were sent by the Ordinary to the Sacred Congregation at the request of Anthony, only on March 2 of this year, 1868. Therefore, according to the records, volume V, page 6."

[*Latin ed. p. 82*]

82. OF MARRIAGES: "The civil law code of Gregory XVI," §§ 969-70-71, in which the term "Anthony" is used, was brought forward, since the introduction of the case "did not occur within the prescribed six months." A dispute arose before the synod regarding this matter. Two questions were considered *ex officio*, one concerning the peremptoriness of the appeal, and the other concerning the principal cause. Regarding the peremptoriness of the appeal, it was noted that although the arguments presented might be true according to the provisions of the law, they did not appear applicable to the case, especially in light of § 383 of the same code, which

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states: "Nothing is introduced concerning the Holy Congregations ecclesiastical, and the rules which are observed by them." Furthermore, with regard to the law of canon, a full year is granted to pursue an appeal, chapter 5 concerning Appeals, in *Romana*. As for the merits of the case, testimonies were presented, which witnesses produced by the parties, and were duly examined in the ecclesiastical court.

DEFENSE OF LUCIA. The testimonies that supported Lucia can be easily reduced to the following propositions: Anthony frequented Lucia's house ten years ago under the title of Lucia's betrothed; he stated that he wished to marry Lucia; however, he was unable to do so at that time, because it would cause distress to her sisters; Anthony also frequented Anthony's house; they frequently shared meals together; an agreement was made regarding the dowry on Lucia's part, which was determined; however, Anthony did not speak of the dowry, stating that he could not marry; these are the statements of one witness. Another witness, Lucia's sister, who was already married to another man, testified in a similar manner, and furthermore stated: that she had heard her mother, Lucia, asked by Anthony, in his presence, whether he was Lucia's betrothed, and that her mother affirmed this, and that Anthony then added, "It pleases me" (in Italian: *per servirla*); the witness admonished Anthony to consider this carefully, so that he would not regret the marriage, since Lucia was already of advanced age; and Anthony replied that he should consider this matter; and in the same context, the amount of the dowry on the woman's part was agreed upon, but Anthony, although present, said nothing; he was also presented by Lucia's sister before a certain Canon, as Lucia's betrothed, and the Canon offered congratulations.

[*Latin ed. p. 83*]

83. Joseph had expressed his gratitude to her: a certain private meal had been held by the woman with the intention of marriage to Joseph. Another witness, the sister of Lucy, testified, recounting similar things, that Anthony had been regarded by her family as Lucy's betrothed: she stated that Anthony had said to her: "You will not, in fact, be marrying Lucy"; and that he had replied, "I do not find myself in a condition to take a wife, but I will do so when I have left the office in which I serve"; that they had behaved towards each other as betrothed; and that the witness had entered into a betrothal with her sister, because Anthony was already Lucy's betrothed. Another witness, a soldier, Anthony's servant, testified that he believed them to be betrothed: that they had visited each other; that one day he had visited Anthony at Lucy's house; and that he had found Lucy and her mother weeping, and the mother had asked Anthony to remember them, and Anthony had replied: "If God wills it, we are confident in this matter; I desire you, and you I shall take." Another witness, a soldier, testified, among other things, that he had heard the sisters of Anthony

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say: "She will be Anthony's wife." The assistant pastor testified that, while attending to Lucy's dying mother, Lucy had indicated Anthony to her and said: "This is my betrothed"; and that the witness had added, "I am glad," and Anthony had replied, "Thank you." These were the testimonies presented for Lucy: and it was noted, according to the law, that these witnesses, although connected by blood, affinity, or friendship, could not be legally disregarded; because in such matters, which are usually conducted among parents and friends, others would be sought in vain. Furthermore, after examining their testimonies, it is clear that either a promise was made by the man, or a promise was renewed by the woman: for the words and manner in which betrothals are contracted are not prescribed, since they are perfected by mere consent; and therefore, it is sufficient that the will be established, either by words or by signs, that the will and consent are expressed, chapters 21 and 25 on betrothals. Indeed, even from indications and circumstances, the judge of betrothals can determine that a contract has been entered into.

[*Latin ed. p. 84*]

84. CONCERNING MARRIAGE. Moreover, setting aside all other considerations, in the present case, a familiarity lasting for ten years, frequent visits extending late into the night, the establishment of a dowry, and amicable transactions, have intervened as causes for entering into marriage. It could not have occurred that what Anthony said was not with the intention of contracting marriage, as he himself affirmed in the presence of others, citing "no one is to be considered to have said what he did not intend" (I. 7 ff. *de Supell. leg.*). Especially since all that he did, prolonged over so many years, demonstrated a serious intention of marriage.

DEFENSE OF ANTHONY. Witnesses presented by Anthony testified in court as follows: that Anthony had not spoken of the dowry, and that he said he could not marry the woman. Another testified that Anthony had said that it was not true that Lucy was his fiancée, and that he had heard this from Anthony three or four years ago. Others similarly testified that they had heard the same thing from Anthony, and that he had said the same to Lucy. Finally, another witness testified: "The family of Lucy still said that they were betrothed: I asked Anthony, who constantly replied to me that he was not her betrothed, and yet that he could not abandon her because of the complaints that she would make. After a serious admonition that I gave him five years ago, he told me that he feared Lucy's brothers, who had threatened to strike him. Lucy visited our house, convinced that she was Anthony's fiancée; but we received her only as a friend." Based on these facts, Anthony argues that there is no obligation of betrothal, and that the testimonies presented against him do not indicate anything other than a prior agreement for marriage, such as frequent visits, signs of mutual affection, and the establishment of a dowry. These testimonies, how-

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ever, should be given less weight, since it is in the greatest interest of the witnesses to place their sister in a marriage. Furthermore, the obligation of betrothal, which concerns a man's freedom in a matter of the utmost importance, must be clearly demonstrated; in the present case, however, nothing is found but empty words and congratulations. Nothing seriously proposed should be taken into consideration, if it is uttered amidst laughter.

[*Latin ed. p. 85*]

REGARDING MARRIAGES 85, and perhaps words concerning wine and banquets were uttered, so that a most serious contract might seem to have been concluded. Considering these and other matters, the proposed resolutions are as follows. QUESTION I. "Is there a place for an appeal concerning the validity of the marriage in this case?" QUESTION II. "Is the judgment of the court... to be confirmed or overturned 'in this case'?" ANSWER. — The Sacred Congregation of the Council, having knowledge of the case on May 23, 1869, judged it fitting to respond: To I. Negatively, and moreover. To II. The documents promised by Joseph are delayed and transmitted by the episcopal court. PROCEEDING OF THE CASE. — After these matters were communicated to the court by letter, it responded: Anthony declared that he had no new documents to present. The case was brought before the Sacred Congregation again on August 21, 1869, concerning the question: "Is the judgment of the court... to be confirmed or overturned 'in this case'?" The resolution was: Having considered all things, it is deemed that there is grounds for removing the impediment, safeguarding the rights of the woman, and acting concerning damages as and to the extent that is legally due. FROM WHICH, THE FOLLOWING ARE UNDERSTOOD: I. The obligation of betrothal, which consists of a promise on one side and a reciprocal promise on the other to contract marriage, must be clearly demonstrated. II. Not every expressed promise creates such an obligation, but only that which proceeds from a firm and deliberate intention. III. This concerns a very serious obligation, by which a woman and a man bind themselves to each other for a perpetual marriage bond. IV. In the present matter, after careful consideration of all things, it has indeed appeared that Lucy had a desire and a wish, and that her family also desired, that the contemplated marriage should take place; but it has not appeared, on the other hand, that the man had a determined and deliberate intention to finally contract the contemplated marriage.

[*Latin ed. p. 86*]

86. OF MARRIAGE V. For indeed, all the prerequisites for contracting marriage are present; yet, it does not appear that the marriage has been definitively contracted (1). VI. Furthermore, in ecclesiastical judgments, which ought to be conducted according to canonical form, it is futile to

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invoke particular laws enacted for defining civil causes (1). From this cause, the distinction is recognized, which not infrequently exists between the theory of law and its practice, or the application of law to a fact. I would wager that almost all those who have merely heard or read the simple theory that the authors on marriage present, if they were to judge this case, would pronounce a judgment for the existence of marriage.

[*Latin ed. p. 87*]

CAPELLANIAE. Die 21 Martii 1868 et 21 Augusti 1869. Summarium precum. Pius, testator, anno 1716 mandavit, ut ex suis bonis constitueretur locus pius seu capellania perpetua in templo paroeciali in altari Sancti Leonardi in Oppido G., cum onere perpetuo tot Missarum, quot essent annui fructus ex relictis bonis. Statuit praeterea ut, pro satisfactione Missarum, praeferendi essent, si qui adessent, Presbyteri consanguinei; secus celebrarentur ab aliis Sacerdotibus eiusdem oppidi et dictae patriae. Iuxta testatoris mentem, capellania fuit instituta, eiusque onera fuerunt adimpleta: sed successu temporis, numerus Missarum ab auctoritate ecclesiastica determinatus fuit ad sexaginta et octo Missas, nulla habita amplius ratione reddituum, qui singulis annis ex dictis capellaniae bonis perciperentur. Anno 1862, post violentam suppressionem Regularium a Subalpino Gubernio patratam, Iosephus, Presbyter Regularis, Oppidum G. (ex quo ortum habuerat) petiit ibique, commorans, postulavit, ut admitteretur ad participandam dictam capellaniam, cum esset Sacerdos eiusdem oppidi; atque ut ipse enarravit, in possessionem fuit admissus, omnibus servatis ecclesiasticis regulis. Aegre id tulerunt reliqui Presbyteri eiusdem oppidi, praesertim vero Parochus; qui denique supplicem libellum exhibuerunt SS.mo Patri, ut declarare dignaretur, Presbytero Iosepho, utpote Regulari, ius non competere fruendi eadem capellania: atque praeterea Parochus postulavit refectionem damnorum ob fructus, quos hactenus Iosephus pefcepisset. Cum preces SS.mus Pater ad S. C. C. trasmisisset, rogatus fuit de more Ordinarius, qui, enarrata confirmans, monuit, fructus capellaniae, supputata synodali eleemosyna omnibusque oneribus, consistere quotannis in scutatis triginta.

ANIMADVERSIONES ADVERSUS IOSEPHUM. Praemittebatur, ad essentiam status religiosi requiri tria solemnia vota, obedientiae, castitatis et paupertatis, adeo ut sine illis religio aliqua proprie dicta consistere non possit: S. Thom. 2, 2 q. 188, art. 1, item argumento ex cap. Cum ad monast. de Statu monach, et Extran.

[*Latin ed. p. 88*]

88. CHAPTERS OF JOHN XXII. Concerning Certain Matters. Regarding the vow of poverty, it is so that a Religious should possess nothing of his own; which is generally established by law, as can be seen specifically in the title of the Decretals concerning the status of monks, and more explicitly in

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the Council of Trent, Session 2, Chapter 5, Canon 2, concerning the observance of the rules. Having generally considered these matters, the Parish Priest raised this specific point: Joseph was not a native of the place, and this is beyond question; but neither could he be legally counted among the priests of the town of C. And he argued that this could be proven from the fact that, although Joseph was born in that town, since he had been promoted to the sacred orders within his Regular Order, and remained a Religious due to the solemn vows he had made to God, he could not be considered a priest of that town, even though he was forced to live outside the cloister; and therefore, he lacked both conditions necessary to participate in the chaplaincy; moreover, he was already receiving an annual pension of 500 florins from the government, granted to Regulars expelled from their monasteries. He also argued from the vow of poverty and from the force of the religious profession, through which, as the Parish Priest stated, he had lost not only the right to possess anything, but also all other civil rights, so that he could no longer be said to have a homeland or a family, except for the religion he had professed; for the religious profession is likened to death, which dissolves all things, as the authors state in title 31 of the Decretals, book 3. Finally, it was not the testator's intention to include Regular priests, and in fact, the Regulars who were present in that town after the testator's death were never admitted to that chaplaincy.

DEFENSE OF JOSEPH. Joseph, on the other hand, argued that the religious profession did not extinguish natural rights, such as the right of origin, since these are inalienable; and therefore, he asserted that his birth in that town was sufficient to give him the right to the chaplaincy; and that no law of the Church could be invoked to exclude him from these rights, to which he was entitled as a fellow citizen of the testator. Furthermore, he denied that it was the pious intention of the testator to exclude Regular priests from the town; since in this matter, the testator's intention was not clear, and it was more favorable to interpret the matter in a way that could be accepted with a stronger reason.

[*Latin ed. p. 89*]

CHAPLAINCIES 89 Furthermore, it was observed that the matter under consideration concerned a chaplaincy with a simple obligation of celebrating Masses, and that it possessed the nature of a simple pious endowment; and, according to the Doctors, Religious are not incapable of holding such chaplaincies; indeed, by the authority of their Superiors, the Sacred Congregation had decreed that Religious could acquire such chaplaincies not only in their own churches, but also in secular churches, as stated in the documents of the Sacred Congregation in Malta, dated 23 May 1694, 11 June 1695, and 1 December 1696. Finally, it was added that, according to a general Pontifical Rescript, Religious who had been expelled from their monasteries had been granted the faculty, due to these times of calamity,

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to provide for their necessary sustenance, even through some benefice or chaplaincy. After prayers were offered at the meetings on 21 March 1868, the Holy See decided to respond according to the usual practice of a *Rescript Dilata*. Meanwhile, at the mandate of the Sacred Congregation, it was requested that the Ordinary provide a more accurate and certain explanation, as to whether the chaplaincy in question should be conferred upon one of the priests of the Oppido, as is customary; or whether it rather possessed the nature of a simple endowment of Masses, the celebration of which would be divided among the priests of the Oppido; and what custom had been observed up to now regarding this matter. Furthermore, since Joseph had asserted that he had acquired possession of the chaplaincy in accordance with the ecclesiastical laws, it was inquired whether the matter concerned the full possession of the chaplaincy, or rather whether he was merely admitted to celebrate Masses and to receive a portion of the pious endowment. The Ordinary, in his response, indicated that the founder of the chaplaincy had intended that, in proportion to the income, a certain number of Masses should be celebrated by priests related to him, and, in their absence, by other priests of the same Oppido; hence it happened that not one, but several, were called by the founder to enjoy the chaplaincy at the same time; and that no canonical institution was required; and that this had also been maintained after the number of Masses had been determined. After the suppression of his Religious Order, Joseph returned to his Oppido and requested that the Rectors of the chaplaincy admit him to participate in it; but they opposed this, alleging that, as a Religious, he could not be of the same Oppido, or that, because of his vow of poverty, he could not possess it; he then invoked the authority of the court, which, after examining the matter and reading the Pontifical Indult, which grants such authority to similar Religious to hold chaplaincies and benefices for their support, exhorted the Rectors—

[*Latin ed. p. 90*]

90. Concerning the affairs of the chaplaincy, so that Joseph might not be excluded from the revenues of the chaplaincy: it was indeed permitted, and he also accepted the office of administering the entire rural property of the chaplaincy, with the consent of the Rectors, since the Parish Priest, who at that time was the administrator, was absent, and still is absent. This is the statement of the Ordinary. Therefore, after the prayers were presented at the meetings held on August 21, 1869, His Grace decided to respond as follows: "In the present state of affairs, the priest (Joseph) should be admitted to participate in the chaplaincy as do the other priests of the place; however, concerning the administration of the chaplaincy, they should exercise their rights before the Most Eminent Archbishop." From QUIETUS COLLEGES: I. Religious, by their religious profession, lose the right to possess the benefices of the secular clergy, and to receive the

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ecclesiastical revenues of the same clergy. II. This is not only because of the vow of poverty, which forbids it, that Religious cannot use goods as their own (1); but (1) It is necessary to recall the passage from the Constitution of Clement VIII, which begins "Nullus omnino," issued on March 20, 1601, for the reform of the Order of Servites: in it, concerning the vow of poverty, the following is stated in § %: "That the decrees of the Council of Trent concerning the observance of the vow of poverty be more faithfully observed, it is prescribed that no member of the Order, even if he is a superior, may possess, as his own, any immovable or movable property, or money, revenues, or benefits, whether acquired from sermons, readings, or from Masses celebrated, either in the church itself or elsewhere, or from any other just labor and cause, and whatever the name may be (even if they are subsidies from relatives, or pious donations), but that all of these things should be immediately handed over to the superior and incorporated into the Order, and be mingled with the other goods, revenues, money, and benefits of the Order, so that a common livelihood and clothing may be provided for all. Nor may any superiors, whoever they may be, in any way grant to these members, or to any of them, any fixed property, even for use, or for administration, or for management, or even as a deposit or in trust. Those things which have been granted for necessity, no one may possess as his own, nor may he use them as his own. Whoever shall transgress any of the foregoing shall incur penalties, not only those prescribed by the Council of Trent, but also other, much more severe, to be imposed at the discretion of the superiors. No dispensation from any of the superiors, no license, can excuse the members with regard to movable or immovable property, so that they are not subject to the faults and penalties imposed by the decrees of the same Council, and by the very fact itself; even if the Superiors assert that they can grant such dispensations or licenses, to which we give no credence whatsoever."

[*Latin ed. p. 91*]

CHAPTER 91. The very status of the Regular clergy, by which they are distinguished from the rest of the clergy in these particular rights, is the matter under consideration. III. When the regular manner of life is suspended due to violent dispersion, it is fitting that Regular priests be admitted to participate in these rights of the secular clergy, provided that the substance of their vows is preserved. For this purpose, an Indult is being considered (1). IV. Therefore, in the present case, nothing has stood in the way of Joseph being admitted to participate in the chaplaincy, just like the other priests of the town. (1) We have presented the Letters of the Sacred Apostolic Penitentiary, by which the faculties already granted to dispersed Regulars have been extended, in Volume III, page 151, in which, in § 16, the following is read concerning our matter: "It is also granted to solemnly professed Regulars, that they may legitimately acquire and retain

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the administration of chaplaincies, or even of a single ecclesiastical benefice, whether residential or with the care of souls, with the consent and at the discretion of the local Ordinary, and with the approval of their Superiors; which, however, they must relinquish immediately upon being recalled by the same Superiors to the cloister." See also, if you wish, what I have written about the indult of secularization in Volume IV, page 338.

[*Latin ed. p. 92*]

FROM THE HOLY CONGREGATION OF BISHOPS AND REGULAR CANONS, DECREE OF PIUS, August 1st, 1869. Summary of Facts. The Archbishop of Guatemala, Garzia Pelaez, requested the admission of the pious Sisters of the Most Holy Virgin from Belgium for the instruction of Christian girls; also, he requested the admission of Capuchin Religious from Catalonia for the instruction of Christian boys. He obtained from the Holy See the faculty of granting certain ecclesiastical goods to these institutions. He also decided to erect a larger seminary for the instruction of youth. In order to provide revenue and increase the resources of both the girls' college and the seminary to be erected, he petitioned the Holy See for the faculty of granting to these institutions rights and goods, even though these were derived from the archiepiscopal fund; and in the year 1860, he received a Rescript with these words: "His Holiness grants the Archbishop the faculty of erecting the aforementioned seminary, and also grants him permission to dispose of his own goods, by living act or by will, for the purpose mentioned in his petitions, and to be valid in this regard; with the reservation, however, that, concerning utensils and sacred furnishings, the Constitution of Saint Pius V, favorable to the cathedral church, shall be observed (1)." Armed with these faculties, the same Archbishop, in the year 1861, made a will in which he appointed an heir to receive the benefit of offerings made for these pious causes; and the offerings which he established for the seminary amounted to twelve thousand scudi (4). See the Constitution of the Most Holy Lord concerning the will of Eminent Cardinals and Bishops, promulgated on June 1st, 1847, which is found in the current Volume III, page 219, as well as what I wrote there, pages 277 and following, and the case discussed in the Sacred Congregation of the Council, there, page 238. Compare also the Council of Trent, Session 25, Chapter 1, concerning bequests.

[*Latin ed. p. 93*]

THE LEGATES OF PIUS IX, for the benefit of four students, from the remaining funds. They also declared their will, that all sums, which, from tithes belonging to them, up to the day of their death, which they had not received in life, should be fully assigned to the college and students of the Sisters of the Blessed Virgin. In the year 1866, through a codicil, they somewhat altered their will: that all revenues from the remaining tithes

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owed to them up to the day of their death, which they had not received in life, should be understood to be assigned equally to both the girls' college and the major seminary. In another writing, attached to the will and codicil, they declared that, just as the residue is united, so the locations of the seminary should be successively established: that the residue from the revenues of tithes should be divided into two parts between the girls' college and the clergy, etc. After the death of the Archbishop, the executor of the will doubted whether, in addition to the residue of the fourth of the tithes, he should also collect the residue of the fourth of the archiepiscopal portion. The fourth of the archiepiscopal portion consisted of the sum which the Archbishop received from portions pertaining to parish benefices. The new Archbishop, having been asked, inquired of those whose interests were involved; and those who were in charge of the estates considered that the residue of the fourth of the archiepiscopal portion belonged to the cathedral chapter: while those who were in charge of the seminary and college considered that it belonged to them, along with the residue of the fourth of the tithes, presenting reasons on both sides. In order to obtain further declarations of the testator's will, the executor of the will was asked to explain what he believed the testator's will to be, perhaps knowing it from a familiar manner of speaking and conversing: who declared that he had not heard the testator speak in a definite way, either about the fourth of the archiepiscopal portion, or about the fourth of the tithe; but that he had the intention of consulting about all revenues that would accrue to both, the seminary and the college: but that he had not named the fourth of the archiepiscopal portion, because he had not noticed it. These things, however, the executor confirmed with several valid indications. In such a difference of opinions, the Archbishop referred the matter to the Apostolic See for judgment.

[*Latin ed. p. 94*]

94. The Legates of Pius [X] presented a synopsis of the arguments. REASONS FOR THE COLLEGE AND SEMINARY. Those who maintained that the archiepiscopal share should be assigned to these pious institutions argued that they were presuming the testator's will, who certainly intended to benefit both the college and the seminary; furthermore, they pointed to the phrase "residuum," which could also be interpreted to apply to that portion designated as the "fourth archiepiscopal," even though the testator had only explicitly mentioned tithes; and finally, they invoked the principle of accretion. Such arguments were confirmed by the following principle: questions raised concerning legacies are usually matters of fact, and not of law, when they are ultimately reduced to ascertaining the deceased's will more accurately; and this is especially true in the case of pious legacies and testaments for pious purposes, because, unlike civil law, canon law considers not formalities and forms, but the testator's will, so that witnesses,

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writings, and other similar things do not pertain to the substance of the will, but constitute only the means by which the will of the testator can be ascertained; therefore, the will of the testator for pious causes, whether it is expressed in writing or in words, or by any other sign, always has the same force. The Abbot, in chapter 1, section 2, of Reiffenstiel's *De testam. ab intest.*, number 22, and others, state this. However, it is clear from many and weighty indications that the deceased Archbishop had, with firm will, designated all revenues for those institutions he held dear, namely the college and the seminary; and this was so certain that even the Chapter, otherwise opposed, would admit that, if only the presumption of the testator's will were to be considered, they would have been defeated. If the testator had only mentioned tithes, it was not to be understood in a restrictive sense, but in a demonstrative sense; and this is evident from the word "residuum," with which he intended to signify whatever remained of the revenues belonging to him; for the term "residuum" includes all money, as Cuiacius observes in *Legem Iuliam peculatus*, I, 4, § leg. Assuming that the fourth archiepiscopal share was not included in the pious legacy by fact, it nevertheless must be included by the disposition of the law; for, when the testator institutes an heir to use his own property, this signifies, according to Barbosa in *Repert. pract. conclus.*, that the goods should be consumed in pious works.

[*Latin ed. p. 95*]

THE LEGATES OF PIUS IX, Canon Law, section on wills, state: "And when pious works have been designated, these are understood to represent the testator's intention; and since the heir is bound by the institution, all the testator's goods and rights belong to him, even if not specifically named, since no one can pass away partly testate and partly intestate. REASONS PRESENTED FOR THE CHAPTER. It has been observed that the privilege for pious causes applies only to the solemnity of the proof, and not to the fact of the will itself; and this is the opinion held, as noted by Cardinal De Luca in *De Testamentis*, section 13, number 5, in these words: 'Those writing on behalf of the same church as plaintiff admit that, today, it is equally certain and accepted as a principle that the favor of a pious cause indeed makes up for all the defects that positive law has introduced in last wills, but not for the defect or imperfection of the will itself; for although Bartolus in *I. in Testamentis* says that a will, even if imperfect in its intention, is sustained by the favor of the pious cause... nevertheless, the contrary opinion is entirely truer and more accepted, because by natural law, one cannot dispense, nor can the Church, which is the guardian of justice and truth, obtain the goods of another without the certain will of the Lord... Therefore, there is no need to doubt this opinion, both because it is more frequently accepted, and also because of the aforementioned reason, which is too conclusive.' With these things established, whatever is said in our

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case regarding the presumption and the testator's intention is useful, if it concerns the interpretation of the will, and its extension to consequences according to the testator's mind; but it is not intended to establish the fact of the will itself, which is not yet clear. On this matter, De Luca, in *De Testamentis*, section 12, number 15, is praised in this way: 'For the last will is said to be perfect when the testator has come to the act of making a will, which is perfected at that instant or moment; without it awaiting perfection from another future act, to which it is referred, so that it may be said to be a conclusive will, which is not in the process, but at the end; and otherwise, any act, even if it prefers the will of the testator, whenever it is referred to a future act, is said to import the preparation of a future will that is still in progress and not reduced to the end, in which case the privilege of the pious cause has no effect.' If, therefore, in the fourth archiepiscopal decree, no indication is..."

[*Latin ed. p. 96*]

96. The legates of Pope Pius state that, whatever the discussion regarding the testator's intention may be, it must be considered that his will was directed towards the *via*, and not towards the *terminus*. Furthermore, it is not necessary to insist excessively on the meaning of the word "residue," since the words of the witnesses must be understood according to the common usage of language. The chapter affirms that, in the region in question, the term refers to the tithes, and never to the episcopal quarter; moreover, the testator himself joined the word "residue" with the tithes. If, however, there were still room for doubt, the legacy must be understood according to what Voet states in the *Pandects*, title on legacies and testaments, number 17: "If the testator places the name of a genus first, and then adds certain species that are included under that genus; if he does this without knowing it, so that it is doubtful whether such species are included under that genus, then everything that the testator had of that genus, together with the enumerated species, must be given; and it seems that the species added are more abundant than necessary," as Ulpian notes in the first question. "But if he knows that the species are included under the genus, then there is no legal ambiguity regarding the species that are subject to the genus, and it is more likely that the testator intended to restrict the legacy of the genus to the expressly mentioned species, so that nothing more than those species is to be given from the legacy of the genus." Finally, neither of the pious institutions can claim, according to the law, to inherit the entire estate, as the present Archbishop has rightly observed. He, opening his mind, notes: "It appears that the right of accretion among named colleges is least applicable, since they are not instituted as heirs, but rather are called as legatees to a portion of the deceased's property, as is evident from the testamentary record. Therefore, if the legatees only have the right of legacy, it is even less permissible to grant them the right of accretion, which can

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only take place if one of the two legatees is lacking. Considering the Spanish laws still in force among us, it is certain that that portion of the property about which the testator has not left anything in the will, cannot in any way accrue to an instituted heir, least of all to a legatee, but immediately passes by law to the legitimate heirs, to whom the right would have been to inherit intestate, and in the case in question, the cathedral church rightly claims this right for itself." With these and other considerations, the matter is to be resolved.

[*Latin ed. p. 97*]

97. DELEGATION OF PIUS: A Question: "Do the remaining portions of the fourth archiepiscopal bequest pertain to the major seminary and to the college of Sisters founded by the Most Holy Virgin; or rather, to the metropolitan chapter in this case?" RESOLUTION. The Holy Congregation of Bishops and Regulars, having knowledge of the matter on August 13, 1869, judged it fitting to respond: negatively to the first part, affirmatively to the second. FROM WHICH WE GATHER: I. The known will and intention of the testator, even if not explicitly stated in the will, can indeed assist in interpreting what *was* stated, but cannot establish something that was not in any way indicated therein (1). II. This applies not only to wills concerning secular matters, but also to matters of piety, even though wills concerning pious matters do not require other formalities, except those by which it can be certainly established that such was the testator's ultimate will. III. In the present case, the institutions designated by the testator as his own soul (which implies that hereditary goods should be applied to pious works) can be considered either as legatees or as heirs (2). (1) See the case which I have explained in Volume I, page 332 and following. (2) It seems to me that the question is whether the two pious institutions should be considered as legatees, or rather as heirs. They can be considered as heirs, inasmuch as the testator called his own soul as heir; but, since the soul is not capable of temporal inheritance, but only of suffrages, which we can obtain from the goods of the inheritance for pious causes, and since certain pious institutions are named, they seem to represent the heir: and therefore, the two pious institutions indicated by the testator seem to have been able to claim the entire inheritance. On the other hand, they seem to be only legatees: for he who institutes his soul as heir, and makes certain pious bequests, indicating only a part of the inheritance, thereby seems to relinquish the remaining part to the power of him to whom it pertains to execute the will, provided that it is applied to pious causes; in which case, said pious institutions cannot rightfully claim the other part of the inheritance. However, given that in the present case, the laws and customs of that region permitted a person to die partially testate and partially intestate, and that the cathedral church, which rightly deserves to be considered among pious causes, had also succeeded by intestacy, there was nothing more just

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than to attribute to it the remaining part of the inheritance not designated in the will. 7.

[*Latin ed. p. 98*]

98. THE LEGATES OF PIUS IV. If they were to be considered as legatees, they could not, by any title, claim a portion of the inheritance that had not been bequeathed to them. V. If they were to be considered as heirs, since they were instituted only in part, and without a co-heir being named, the customs of the region have hindered them from obtaining the remaining portion of the inheritance, which customs allow that the same inheritance can pass, in part, by testament and, in part, intestate. VI. Therefore, they were obligated to succeed to the inheritance of the Chapter, which, as the heir of the Archbishop, would have inherited intestate.

[*Latin ed. p. 99*]

APPENDIX II: CONCERNING THE CANONICALLY ESTABLISHED MEANS FOR ERECTING DIOCESAN SEMINARIES AND ENDOWING THEM, THE OPINION OF THE MOST DISTINGUISHED RELATOR AND SEVERAL RESOLUTIONS PROMULGATED BY THE SACRED CONGREGATION IN THE CAUSE OF MASSA, ON DECEMBER 17, 1836.

The American case of Guatemala, in which the deceased Archbishop contributed his own property for the erection of an archdiocesan seminary, brought to mind the case specifically discussed and definitively settled in the Sacred Congregation on December 17, 1836, concerning the means canonically established for erecting and endowing diocesan seminaries.

Here we present the complete opinion, issued by the learned and esteemed jurist, for this important matter (1).

"Pius VII, Supreme Pontiff, mindful of his Apostolic Letters of February 13, 1822, by which he bestowed the dignity of an Episcopal See upon the city of Massa, and recalling how necessary, and with what diligence, the institution of ecclesiastical seminaries was commended by the Fathers of Trent, so that the youth, from their tender years, might be instructed in piety and religion, and lest the future Bishop should freely establish and administer a seminary as soon as possible, and that a number of boys might be educated there in ecclesiastical doctrines, (1)

Those who wish to know more about this matter should consult the learned work of the Reverend Angel Lucidi, recently published by this printing house of the Propaganda Fide, which is entitled: "On the Visitation of Holy Places." In it, besides the case that we are about to present, are found the Apostolic Letters of Benedict XIII, entrusted to us, issued in the Roman Synod for Italy and the adjacent islands; also, particular instructions pertaining to this matter, and many other things, which illustrate the practice of the Holy Congregations.

Since mention has been made of this recent and learned work, we do not

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wish to pass it over in silence. Under the indicated title, "On the Visitation of Holy Places," this work contains almost the entire body of canon law, except for matrimonial and criminal cases; and furthermore, it contains abundant doctrine and current practice from the Sacred Congregations of Bishops and Regular Canons concerning more recent ecclesiastical institutions, which are called "simple vows."

Finally, this work is very useful for Bishops, Vicars General, and all those who canonically visit a diocese. It consists of three volumes in 8vo. The first two volumes illustrate the most learned Instruction of Benedict regarding the manner of preparing a report on the condition of churches; the third volume contains in its entirety the principal documents that refer to the first two.

[*Latin ed. p. 100*]

APPENDIX II which the necessity and utility of the diocese demanded; but also suitable buildings, and a sufficient endowment of goods, which the pious Duke of Modena promised to provide. He granted and assigned a seminary to the bishop. "Three ecclesiastical seminaries were established in the Massensi diocese: one in the city of Massa itself, to instruct twelve clerics in dogmatic and moral theology; another in the city of Castelnuovo, located within the boundaries of the Caperonian province, where twenty-four clerics living outside the seminary, who were poorer and of slower intellect, would be instructed at least in moral theology; and a third in the town of Pontebosio in the Lunensis province, to instruct twelve clerics in the humanities. The Most Serene Prince granted a sum to each seminary, namely, initially Italian bonds worth four thousand [scudi] per year, to be increased to six thousand [scudi] when the buildings of the seminary were expanded to a larger size, and the number of students increased to twenty-four; secondly, Italian bonds worth four thousand [scudi] per year; and finally, Italian bonds worth one thousand eight hundred [scudi]. "While the prelate Franciscus Zoppi, who first governed the Massensi church, was restoring and rebuilding these buildings, he was nonetheless greatly concerned and troubled by the scarcity of revenues, since barely enough could be found for the maintenance of the buildings, and for the sustenance and salaries of the administrators and servants. In the very poor diocese, there are very few young men whose individual pensions of five [scudi] per month could be paid to the Massensi seminary, and whose pensions of four [scudi] per month could be paid to the other two seminaries or ecclesiastical colleges; therefore, for most young men, the way to the episcopal seminary was blocked by poverty, unless they were received either free of charge, or with a reduced pension. "Therefore, the Bishop decided to establish only one seminary, and that one in the city of Massa itself, firstly because the same administrators, servants, lights, and other such things serve almost equally to three seminaries, secondly because it would be

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convenient for other clerics to have a residence there while attending only the classes of the seminary, and finally because, in the eyes of the Bishop himself, the discipline of these young men would flourish no less than the seminaries themselves; especially since the locations of Castelnuovo and Pontebosio are situated among the mountains, so far from the episcopal seat, that they cannot be visited by their own pastor except rarely and with great difficulty. This, however, he considered and desired, given the various circumstances."

[*Latin ed. p. 101*]

APPENDIX II. He could in no way commit the matter to execution. Therefore, in order that the seminaries might not be rendered useless, and in response to the requests of poor clerics, who, led by the hope of obtaining some assistance, had entered the course of ecclesiastical studies, he considered what measures might be taken to increase the revenues of the seminaries. "The Archbishop of Massena turned his attention to confraternities, church buildings, and other places, which, having been stripped of almost all their possessions not long ago, yielded little or no income, and which were mostly supported by the alms of the faithful. The revenues of benefices were also generally diminishing, and this long-standing situation troubled the Archbishop; but finally, he realized that, given the extreme poverty of the diocese, he could not otherwise maintain the necessary number of clerics, and he easily saw that the only remedy was to resort to imposing at least a small tax on the benefices. Therefore, he summoned to council two canons from the cathedral church and three other prominent men from the clergy of the city, and he decreed that a tax of three scudi should be paid annually by all the beneficiaries of the diocese for every hundred scudi of income. "He himself set the example, the Archbishop himself immediately paid four scudi for every hundred scudi from the revenues of the episcopal table, but with the understanding that no prejudice should be thereby created for his successors. The canons of the cathedral church and some of the most reputable parish priests and beneficiaries followed his example; but others, although they did not object at first, later began to raise difficulties and objections that would completely prevent the collection of the tax, or at least greatly diminish it. In this situation, the aforementioned Archbishop Zoppi, before sending a report to the metropolitan, considered it advisable to refer the objections to the Sacred Congregation of Councils, so that it might be determined what course of action should be taken for himself and his successors. "But since the Most Reverend Fathers of Rome, before proposing such matters for discussion in the ordinary assemblies, have considered it necessary for me to investigate the matter and to express my opinion; therefore, in order that, having been entrusted with this task, I may perform it with the obedience and diligence that are due, I believe that I have two things to do:

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first, to determine, according to the judgment of the sacred canons, what should be considered in the matter raised; otherwise, I fear that I may seem to be overturning the wise judgment of the Most Reverend Fathers; and second, whether to compel the beneficiaries to pay the imposed tax.

[*Latin ed. p. 102*]

102 APPENDIX II, or rather, its execution should be suspended, considering the particular circumstances. "And in addressing this legal question, I believe it is important to note that the debated issues can be reduced to three main points. There are those who contend that they and other beneficiaries are completely exempt from the tax. There are those who, through extensive deductions from the benefits, significantly reduce the income, and therefore almost eliminate the tax. Finally, there are others who, citing religious reasons, refuse to swear an oath to confirm the amount of their income. Therefore, I believe it is necessary to examine the merits of each case, so that each may receive what is due to them.

"Let us begin with those who claim immunity from the tax for themselves and all beneficiaries. It seems to me that there is no reason why the benefits of the entire diocese should not provide assistance to seminaries that are lacking, at least until the generous Duke of Modena establishes an endowment that is sufficient not only for the maintenance of the buildings, and for the support of the teachers and servants, but also to adequately provide for the number of poor clerics being educated within the seminary. Indeed, the Council of Trent, to which we owe the pious and holy institution of seminaries, mandated that, if there were not sufficient revenues designated for this purpose, bishops should use a remedy, namely, to deduct a portion from the entire revenues of the episcopal see, the chapter, and any benefits, even those of regular canons, regardless of any patronage, and apply and incorporate that portion to the college! This decree of the Council of Trent was further strengthened by the most provident decree of Benedict XIII, which begins with the words, "Having been informed," in which it was established that "both for the erection of a new seminary, and for the supplementation of the revenues of a seminary already established, a tax should be levied, which should correspond to the sum of three scudi for every hundred units of income from the benefit; and if necessity demands, it may even be increased up to the sum of five scudi for every hundred, so that it never be less than three scudi, nor more than five scudi for every hundred, and that all benefits and individual benefits be subject to this tax, and be perpetually liable for its payment."

"However, it could be objected that, in Massense and other towns..."

[*Latin ed. p. 103*]

APPENDIX II. The seminaries dependent on the ships and the bridge of Bosio have been suitably endowed by the Most Serene Prince of Modena,

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and therefore, this is not a matter to be remedied by a subsidiary tax, especially in a diocese whose benefices are meager and whose revenues are small: for he who would utter such words would clearly demonstrate his complete ignorance of the matter. Indeed, the Prince has provided goods, but, as the Prelate Zoppi stated, these are sufficient only for the maintenance of the buildings, the salaries of the administrators and servants, and for sustenance. Therefore, there are insufficient revenues to support the necessary number of students for the diocese, which consists of more than one hundred and forty parishes, in addition to two collegiate churches, twenty-two benefices established to assist the parish priests and to provide for the needs of the poor, several simple benefices, and three seminaries. "Furthermore, it would be futile for anyone to seek refuge in the pension paid by the students of the seminary. For, in a poor diocese, scarcely any families can be found who are able to afford the full pension; and, certainly, poor clerics, who are frequently called by the Lord, endowed with talent and piety, would be denied access to the seminary, where they could be suitably instructed in religion and the liberal arts. This, indeed, is far removed from the decree of the Council of Trent, which, while not preventing the sons of the wealthy from entering the seminary, provided that they are maintained at their own expense and that they prefer to serve God and the Church, nevertheless directs all attention to the poor, stating: 'The sons of the poor should be especially chosen.' Moreover, it contradicts the constitution of Benedict XIII, 'Granted to us,' § 1, in which it was decreed that a tax should be paid from all and each benefice, so that the seminary would be suitably endowed with sufficient revenues for the support of the students and teachers. Indeed, the revenues, the Pontiff continues in the aforementioned place, § 4, should be of such a quantity as to be sufficient for the support of the number of students designated for each seminary; but this number must correspond to the needs of the entire diocese, as is stated in the encyclical letter of the same Pontiff, ordered to be sent to all the Bishops of Italy. 'I am astonished that those who bring up the custom of avoiding the tax do not realize that, before the erection of the episcopate and seminary of Massa Lubrense, the parish priests and other beneficiaries were not subject to this tax; but what is the objection to the seminary of Massa Lubrense?'"

[*Latin ed. p. 104*]

APPENDIX II: By what institution can they oppose [this]? Where is the title, the frequency of actions, and the time that is clearly necessary for establishing, or for inducing obedience? If, perchance, some custom or prescription existed, it could not be disregarded even in a diocese that has been dismembered, much less in one newly established. The Council of Trent decreed that all possessors of benefices should be compelled by the local bishop to contribute a portion of the fruits of their benefices to

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the council, notwithstanding any privileges, exemptions, custom, or even ancient immemorial usage. It is known that customs are invalid and void if they violate certain laws contained in the same Council of Trent, as taught by Benedict XIV, *Inst. eccl.* 60, title 7, and widely cited by Pitonius *de controvers. patron.*, allegation 5; Cardinal Petavius *ad const. 4 Catlisti III*, section 2, number 6, volume 5; and the annotations of the Holy Congregation of the Council in Bovino, *Iurium Parochialium*, May 27, 1820, §. It should be noted, and in Arminach and Gaesenaten, *Iuris quaes'uandi*, February 25, 1826, §. Custom. Indeed, the Holy Congregation has repeatedly declared that a custom, even one of a hundred years, which binds certain beneficiaries to pay a tax for the seminary, and that the benefices should be taxed accordingly, and that the tax for the seminary should be paid, as in Veliterno, the tax for the seminary, April 24, 1723; in Rome, the tax, September 9, 1752, in response to questions 1 and 3, and in three other cases in Veliterno, the tax for the seminary, March 16, 1771, §. No. Therefore, whatever the Mass beneficiaries may do, they cannot escape the payment of the tax, until the diocesan seminary is increased in size, so that it can not only serve for the maintenance of the building and for the wages of teachers and servants, but also for the support of needy students. But if the beneficiaries were to refuse to pay the tax, the bishop could compel them through ecclesiastical censures, and other legal remedies, even calling, if it seems necessary, for the assistance of secular authority, as decreed by the Fathers of Trent, Session 23, chapter 18, on Reforms. I believe I have said enough and more than enough about the legal obligation to demand a tax for the seminary from all beneficiaries, whether of the city or of the diocese. Now, it is permissible to discuss whether benefices of small value, or chapels, are exempt from this burden. Furthermore, with regard to the smallness of the income, it does not provide any immunity. For the Fathers of Trent, and Pope Benedict XIII, wanted all benefices, without making any distinction between rich or poor prebends, to be subject to this burden.

[*Latin ed. p. 105*]

APPENDIX II 105. The wealthy, wisely considering the law by which it is provided that all benefices should contribute to the common fund, but only in proportion to the fruits derived from each, asserted that the exemption from the tax for the seminary should be considered. (These are the very words of the instruction.) For the seminaries were primarily instituted to support the clergy and to prepare them for the care of souls. Nor can the pastors claim exemption on the grounds that the annual revenue of the parish, held by those who possess several benefices, does not exceed the sum of one hundred crowns, as has been decided on other occasions by the Holy Congregation of the Council.

"This exemption," it is clearly stated in the document of this Holy Congregation, dated May 1763, § XIV, "is granted only in such a way that

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pastors and other beneficiaries are not thereby deprived of the fruits which they legitimately collect from their benefices, so that they do not collect more than seven gold florins annually. And in this regard, the Holy Congregation, in Rome, on January 26, 1697, and in Rome, on August 9, 1732, decreed, in these words: 'Because of the considerable diminution of revenues, it has been decided that there is a place for a reduction of the tax in the case under consideration.'

Both simple and complex benefices, even though they may be of small value and not sufficient for their maintenance, must contribute to the seminary in proportion to their fruits, unless the poverty is such that, according to the decree of Boniface VIII, they are not subject to the payment of tithes.

"If anyone were to enjoy this exemption, it would be clear that the pastors would not be obliged to pay the papal tithe, which is a manifest departure from the truth." However, the Pope, in the aforementioned decree, states: "Secular clergy, whose ecclesiastical revenues and income do not exceed the sum of seven gold florins annually, are not subject to the tax for the seminary, even if they are instructed." Therefore, if the papal tithe is imposed, it must be understood that those who are subject to the tax for the seminary are not exempt from the payment of the tithe, even if they are instructed.

[*Latin ed. p. 106*]

106 APPENDIX II The annual benefit exceeds the sum of seven florins, and in our diocese, the established tax must also be paid to the seminary, so that no one may evade their duty regarding the revenues. Indeed, if anyone possessed several benefits, none of which, due to their low value, would individually be subject to the tax, nevertheless, they would be denied the aforementioned exemption if the annual income from all of those benefits together exceeded the sum of seven florins; as is stated in the Sacred Congregation, in *De Decim.*, May 14, 1763, §. Finally, in the aforementioned Extravagant, concerning tithes, it is decreed that the person possessing the benefits should be considered, and not the benefits themselves, if the Pontiff so decrees: "If, however, one person has several benefits, none of which, by itself, reaches the aforementioned sum of florins of gold, but together the collected income from them exceeds the aforementioned sum, however small the amount may be, then the tithe shall be paid on all and each of them." Regarding chaplaincies, the entire question is resolved by that easy and obvious distinction, by which ecclesiastical chaplaincies, which are established by the authority of the Bishop and are conferred with a title, are considered to be subject to the tax, just like ecclesiastical benefits (Lotter *de re benefic.* 1.1 q. 3, no. 5; Sacred Congregation, in *Montis Alti capellaniae*, August 22, 1796, §i; and in *Camerinen. capellaniae*, March 15, 1828, §. Precibus). However, lay chaplaincies, or movable ones, which are instituted without the intervention of the Bishop's authority, and which are

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equivalent to pious offerings for Masses (Sacred Congregation, *Concilio in Anconitana capellaniae*, May 12, 1770; and in *Firmana capellaniae*, August 29, 1772, §. Contendit), are entirely exempt from such a burden, as the aforementioned Instruction clearly states. Indeed, §. 4, no. 12 states: "Chaplaincies must contribute to the seminary if they are permanent and if they confer a title, but not if they are movable." The Sacred Congregation states in *Sabinen*, June 23, 1640, ad II dub., and in *Romana*, concerning the seminary tax, December 6, 1794: "Therefore, so that this matter, which is quite clear, may not be prolonged any further, I will turn my words to the method by which the receipts and expenses of each benefit must be recorded, so that those who are excessively anxious may not be tormented in maintaining the record of profits, and so that others, who are not at all concerned with the seminary, may not reduce the amount of income by undue deductions, more than is proper. Indeed, several minor points and many questions of little importance are raised, which, if I were to pursue each one individually, would fill a volume."

[*Latin ed. p. 107*]

APPENDIX II, and abuse your patience. Therefore, I will address the most important points. "It is certainly not doubtful that the accounts of receipts and expenditures of each benefice holder must be sworn and presented to the episcopal court. Indeed, the Instruction of Benedict XIII, § 19, states: 'In order that the tax may be imposed with the greatest possible security, each Ordinary must require all those who are obligated to pay said tax to present in his chancery, within a reasonable time, a sworn statement of the annual revenues derived from the benefices, or from goods held by them, after deducting expenses, which are subject to the aforementioned tax, as is the case in the collection of Papal tithes.' Similarly, it is established by law that, in order to determine the annual value of each benefice, the fruits of an entire decade must be considered, and not those of this year or another, as the common opinion of the doctors and the practice of the tribunals suggest. Card. de Luca, *de pens.*, disc. 6, n. 13, *Rot.* in Ravennaten. *Spolii super fructibus*, April 17, 1761, § 5, *cor.* Cornelio; *S. Cong. in Papien.*, February 20, 1723, § *Primum*; and in *Firmana pensionis*, March 17, 1827, §. Moreover, it is so reliable that even the benefice holders of Massae do not seem to dispute it. What they add to the discussion is whether the revenues of benefices are to be included, and therefore whether parochial revenues are subject to the tax, especially those commonly called 'certain' and 'uncertain'. 'To resolve this question, which is sufficiently complex due to the disagreement of the doctors, I believe it is worthwhile to refer here to what the aforementioned Instruction states on this matter. Namely, § 3, no. 10, reads: 'Continuing the discussion of beneficed, that is, parochial, curates, it is necessary to point out that the tax must fall on the fixed annual income of the same, and on those revenues

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which are called certain and uncertain, but not on the revenues that are totally uncertain, according to another resolution of the Holy Congregation of the Council in Palermo, in October 1587, book 5, page 32, verso.' From this, it is clear that even the uncertain revenues of the parish priests are to be included among the revenues of the benefice holders, and are subject to the tax, provided that they are certain, and not entirely uncertain. Therefore, the crux of the matter lies in properly distinguishing between certain and uncertain revenues from those that are completely uncertain. 'This question, which requires clarification, is illuminated by a threefold distinction of revenues, which is commonly taught by the authors on the subject of parish priests.'"

[*Latin ed. p. 108*]

108 APPENDIX II concerning suitable revenues. Indeed, certain revenues exist, the quantity of which may be uncertain, but their substance is certain, and their quantity is ascertainable, such as tithes of wine, oil, and grain. Gerald, *Ad Barbos, de officio parochi*, p. 1, c. 2, n. 154, and in Appendix 2, c. 1, n. 34; Gonzalvo, *Ad R. 8. Cancel.*, §. 7, prooem, n. 185; Franciscus Leo, *Thesaurus Foraminis*, c. 31. Some are purely uncertain and contingent, depending solely on the devotion and free will of the people, such as offerings made during the blessing of houses, or by women after childbirth, or even from personal labor, such as alms given for a Mass, Vespers, and other similar things; Rigantius, *Ad Reg. LV. Can.*, n. 120; Cardinal de Luca, *De Beneficiis*, discourse 90, n. 7; Sacred Congregation *in Papien.*, May 2, 1722, §. *Faldamenta*, and in *Brictinorien.*, *Congruae*, December 14, 1782, §. *Perperam*. Others are revenues that are received by right, such as the proceeds from baptisms, marriages, and funerals, and other similar things, which do not depend on the free will of the faithful, but are paid as a debt, and therefore, although not entirely certain, they are nevertheless somewhat certain, "as Gard, *De Luca, De Parochia*, discourse 18, n. 12, states, and as Pitius, *Disceptationes Ecclesiasticae*, 46, n. 4, and Gerald, *Ad Barbos, De Officio*, p. 1, c. 2, n. 154, and the Sacred Congregation *Concilio in Camerinen.*, *Restauratio*, December 17, 1763, §. *Perperam*, say, 'it is impossible for the people not to die, not to be born, not to be baptized, and not to enter into marriage.'" Furthermore, the revenues of the first kind cannot be subject to taxation, because, although they are called uncertain, they are truly certain in every respect, although they may be greater or lesser, just as the fruits of estates are collected, which are now more abundant, now more meager, according to the fertility of the fields and the years. For this reason, revenues of this kind are, without dissent, included in the *Congrua Parochorum* (suitable revenues for parishes). On the other hand, the revenues of the second kind are entirely excluded from taxation, because they are entirely uncertain, and it is possible that

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they will not be received at all; therefore, among these are included the revenues that are called by the aforementioned instruction as "totally uncertain revenues." The question only arises concerning the revenues of the third kind. These are indeed considered by many doctors to be merely uncertain, and therefore they cannot be included in the *Congrua Parochorum*, although there are those who hold the contrary opinion, as stated in the Constitution of St. Pius V, beginning *Ad exsequendum*, November 1, 1567, and also in the practice of the Sacred Congregation, as seen in the report concerning the amount of revenues for the assessment of the parish.

[*Latin ed. p. 109*]

APPENDIX II: It is customary to instruct the Bishops to report on the revenues of the parishes, including both certain and uncertain income. As far as we are concerned, revenues of the third kind are certainly to be declared exempt from the tax. Indeed, in the aforementioned instruction, which should be given the highest consideration, nay, regarded as law, it is stated that the tax is not to be paid on revenues that are totally uncertain, according to another resolution of the Holy Congregation in Palermo in October 1587, book 5, decree, page 32, verso. In fact, upon examination of the records of the aforementioned Congregation, it was found that this very resolution exists in the cited Palermo document. The parish priests, indeed, were questioned about the tax on the seminary, because their revenues were uncertain, arising from funerals and marriages. However, the Holy Congregation responded, stating, "The uncertain revenues of the parishes are not to be taxed for the seminary." Therefore, it is clear that revenues of the third kind, such as those received on the occasion of baptisms, marriages, and funerals, are in no way subject to the seminary tax.

Now, with regard to the deduction of expenses, it should be noted that expenses are of two kinds: one, those that are incurred in connection with the source of the revenue, such as the cultivation of land; or those that are external to the source, such as expenses incurred for the benefit of the benefice. Those expenses that are incurred in connection with the source are, of course, to be deducted, as is well known. Indeed, the tax for the seminary is to be paid from the revenues of the benefices and other ecclesiastical revenues, as the Council of Trent states in Session 23, chapter 18, on Reform. The revenues are understood to be after deducting the expenses that are incurred in order to obtain them, such as plowing, harvesting, and storing, as I. Si a patre 39 §. states in *Fructus etc. de petit, haered.*, and the Glossa there says: "For the expense incurred in obtaining the revenues, it is clear that the revenues themselves must be reduced for the tax," as in I. 46 ff. on usury. And this common legal opinion is confirmed by the cited *Extr. declarationes §. in solvendo*, but also by the frequently cited Instruction §. 1 n. 5, where it is stated: "That the annual regular income

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of the contribution, that is, the tax for the seminary, is that which remains after deducting only the necessary expenses for obtaining the revenues." With regard to expenses that are incurred externally, the same Instruction states: "That, in order to determine the annual income, those obligations alone must be deducted that were imposed before the Holy Council of Trent." "Since these things are so, then..."

[*Latin ed. p. 110*]

110 APPENDIX II: Whether expenses incurred by tenants should be deducted, and what is just and equitable in this regard, is considered here. The question is raised whether the wages of servants should be deducted if the tenants use the services of these servants not only for serving the tenants themselves, but also for collecting the revenues of the benefice; also, whether the expenses of travel should be deducted if the tenants are required to travel outside the parish to inspect properties, especially during harvest time; similarly, whether food and other provisions, which are usually given to workers who bring produce to the house, should be deducted; also, whether the lost profit should be deducted, which the tenant was obliged to spend in order to equip the property with seeds, livestock, and other necessities for cultivation; and finally, whether the losses, by which tenants are often affected due to the poverty of the tenants themselves and other debtors, should be deducted.

"In order to speak of each of these matters, it seems worthy of note that necessary and customary expenses are indeed permanently inherent in the revenues of the benefice, but not uncertain, extraordinary, or voluntary expenses, as Barbos teaches in *de paroch.*, part 3, chapter 29, paragraph 16; Rigantius in *ad reg.*, 53, cancel, paragraph 100; and Cardinal de Luca in *de benef.*, discourse 90, paragraph 40.

Then, starting with the wages of a servant, it is inquired whether that wage should be paid to the servant because he is a servant of the tenant, and serves his person; or rather, because the tenant uses his services, just as he would use the services of other workers to plow and cultivate the field. If the tenant employs his servant in the cultivation of the property in place of another worker, the wage must be deducted from the revenues of the benefice in proportion to the labor and effort, because it is paid to him not as a servant serving the tenant, but as if he were another worker.

Furthermore, it is clearly established from the testimonies cited above, and as taught by Antonellus in *de regim. cui.*, book 3, chapter 9, paragraph 5, that the expenses of workers necessarily diminish the revenues of the benefice, and therefore should be deducted.

However, the wages paid to a man who serves the parish priest, or who helps him in the administration of the goods of the parish, are not to be deducted, as taught by Antonellus in the aforementioned passage, and by Piton in *Discep. eccl.*, 40, number 5. For these expenses are considered

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voluntary, which are incurred for those services which the tenant himself can perform. Cardinal de Luca in *de benef.*, discourse 90, paragraph 80; Merlin, decision 307, 28.

Also, the expenses of travel of the tenant are not to be deducted if he goes to the property in order to better oversee the collection of the revenues; for the labor and diligence of the tenant in the administration of the property are inherent in the right to receive the revenues."

[*Latin ed. p. 111*]

APPENDIX II: These [expenses] are fixed; therefore, the time and inconvenience involved in obtaining the fruits of the benefice cannot be diminished. Indeed, if the beneficiary were to pay a salary to the person who manages the property, this would not be deducted, unless the necessity of the administrator was clearly demonstrated. (Piton, loc. cit.; Barbos, *De Par.*, part III, chap. 29, no. 19.) "However, I believe a different judgment should be made regarding meals and gifts that are customarily given to workers who transport grain to the granary, or to the house of the beneficiary. Indeed, such expenses are neither voluntary nor extraordinary, but necessary and customary, and therefore diminish the value of the benefice. And, as stated in *Si a domino* § 36, the 'fruits' are understood to be what remains after deducting all expenses, which are incurred in order to preserve [the property], as is explained in the Glossa (e.g., expenses incurred in transporting goods to the granary, as explained there). The transportation of grain to the granary, or to the house, is, in effect, the completion and fulfillment of the harvest. Therefore, as stated in *Si a patre* §, it is stipulated that the deduction of expenses of this type should take place not only in the case of those who possess the property in good faith, but also in the case of usurers. As for the portion of seed, livestock, and other things, which are customarily called 'scorte,' its value should be considered, especially if it is of significant importance according to the local conditions and customs, so that the 'fruits' are understood to be what remains after deducting the profit from the 'scorte,' as stated in *Rota decis.* 266, no. 2, part 7, recent, and by Cardinal de Luca, *De benef.*, disc. 9, no. 79. Since such a portion is necessary to cultivate the land, and therefore constitutes a part of it, it is most closely related to obtaining a more abundant yield from it, and should be given to the Lord, as affirmed in *Rota coram Gamberini* decis. 33, no. 14. Therefore, it is highly equitable to deduct the profit due to the money spent by the beneficiary to equip the fields, livestock, or other equipment necessary for cultivation. Otherwise, a different judgment should be made regarding the losses that pastors and beneficiaries are sometimes forced to bear due to the poverty of tenants and debtors. For, in addition to the fact that such a loss is external to the property and does not increase the burdens "that were imposed before the Holy Council of Trent," as I have often stated in the aforementioned Instructions, it also happens that this

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loss is eventual, accidental, and sometimes culpable, and therefore cannot diminish the value of the benefice, as has been indicated above based on the opinions of the doctors. "When my prayer has reached you, I confess that this is the state of my mind."

[*Latin ed. p. 112*]

112 APPENDIX II, concerning whether questions pertaining to ecclesiastical matters should be resolved according to the law of the sacred canons. However, it remains to be considered whether, according to the rule of prudence, it would be beneficial to confirm the decree of Bishop Zoppi, given the precarious financial situation of this benefice and the poverty of the clergy of Massa Lubrense, and to order the execution of the imposed taxes. Indeed, scarcely had I begun to address this matter when I realized that the decree of Bishop Zoppi, while indeed based on a sound legal foundation, aimed at a goal that, considering the circumstances of the time, the individuals involved, and the nature of the matter, would prove to be exceedingly difficult and burdensome in the imposition of such taxes. Therefore, when Bishop Francis Strani arrived from Rome to be appointed to the church of Massa Lubrense, I asked him to frankly express his opinion on this matter, but since he was not yet familiar with the diocese or the situation, I found him to be quite hesitant. After he had taken up his residence and had the opportunity to observe the conditions of the diocese and to become more familiar with all that needed to be known, he presented serious arguments that should not be disregarded, arguing against the imposition of the taxes. In order that the considerations of the Most Reverend Fathers regarding this matter may be more fully understood, I believe it is appropriate to reproduce here his complete account, which is as follows: "It is certainly to be commended and worthy of true pastoral concern that my predecessor endeavored to impose a tax on the benefices of this diocese. Indeed, it would have been desirable if he had been able to accomplish this, but he encountered so many obstacles and difficulties that he was forced to abandon the project. When I assumed this office, the execution of this project seemed so daunting that, considering the evils that might arise from it (and which would certainly cause great displeasure to the civil authorities), I did not dare to undertake it. "Indeed, from reports and from my own experience, I have been able to conclude that the parochial and canonical benefices, with very few exceptions, are so lacking in revenue that they scarcely, and often not even, provide sufficient income to support the beneficiaries, even if some of them have received some increase through the generosity of the Duke of Modena. Furthermore, the scarcity of money and the extreme difficulty of collecting it, due to the ruggedness of the terrain and the lack of commerce, must be added. In addition, there are countless needs in these

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parishes..."

[*Latin ed. p. 113*]

113 APPENDIX II. These churches are mostly lacking in furnishings; almost all the parish buildings are either crumbling or in need of restoration; many of the poor suffer from extreme poverty; to these are added the confiscations of property, which all the confraternities and ecclesiastical institutions have suffered, and pious foundations, not even exempt from them, have been deprived of their benefits, many of which were under the jurisdiction of Gallic, Italian, and Lugo governments, which have released them to the patrons for an unfair half price. Finally, let us add the very deceptions of men, who often conceal the true income of benefices, and other difficulties that must be faced in collecting taxes; and from all of this, it will easily be understood that a laborious work and constant struggle are always fully prepared for reducing the income, and that it is always uncertain due to the various vicissitudes to which it is subject. "Elsewhere, in this city, there exists a royal seminary, established by the generosity of Duke Francis IV of Modena, for students diligently engaged in the study of theology, to which, for its endowment, he has established four thousand Italian livres annually, if the number of students is less than twenty-four, and six thousand livres of the same currency if this number is exceeded. Furthermore, he has provided one thousand two hundred annual Italian livres from his own resources for the salaries of professors of dogmatic and moral theology, and for the maintenance of the buildings, until now borne by his own expenses, and he firmly intends to endow this seminary with real estate as soon as a suitable opportunity presents itself. There are twenty students this year, each of whom pays twenty-five Italian livres for monthly expenses. There also exists in this city a college for regular clergy of Saint Paul, which has been excellently provided with real estate thanks to the praised generosity of the aforementioned Duke, in which young men are thoroughly educated, from the very first principles of reading and writing up to philosophical disciplines. Another seminary exists in the city of Castelnuovo in the province of Capranica, established and endowed with real estate by the benefit of the same Prince, and its students, numbering twenty, pay only twenty Italian livres for monthly expenses. The income of the endowment amounts to four thousand Italian livres, and the young men are imbued with the precepts of grammar, rhetoric, and philosophy, and are formed according to the correct norms of morals and religion, under the discipline of an ecclesiastical superior chosen by the Ordinary." And with the greatest joy of my heart, at this very moment in which I write these words, the most pious Prince...

[*Latin ed. p. 114*]

114 APPENDIX II. A letter, written with his own hand, from the

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Superiors concerning the affairs of the diocese, reached me, so that they might know and understand, and reveal to me their thoughts, "whether the tax for the seminary should be maintained, or whether another seminary should be opened in the Lunensi province, which is under their dominion, since for some years now, buildings and furnishings have been prepared, but it has not yet been opened."

I will never pass over the wise judgment of their Eminences, in answering this inquiry, and I submit to whatever they may have decided.

"Therefore, whether the weakness of the revenues, or the difficulty of collecting the taxes is considered, I believe it is perhaps better to suspend the collection of the tax. Furthermore, the Most Pious and Munificent Duke of Mutinae promises to provide endowments for the seminaries.

"Indeed, I am not unaware that this pious undertaking, established in places distant from the Ordinary's residence, faces various difficulties, especially for those who are supported and educated there.

"Hence, the opinion of the present Bishops also applies to me, although I readily submit to the wiser judgment of the Most Reverend Fathers. Therefore, the following doubts arise:

I. Whether the tax for the seminary should be maintained, or rather suspended, in this case.

II. Whether they are obligated to pay the tax, even if they hold benefices of the law.

III. Whether even benefices of small value are to be considered in this case.

[*Latin ed. p. 115*]

APPENDIX II

IV. Are parishes, the value of which is less than one hundred annual scudi, to be considered in this case?

V. Are purely secular chaplaincies to be considered in this case?

VI. Are the uncertain revenues of pastors to be taxed in this case?

VII. Are expenses for cultivating the land and gathering crops, as well as for storing grain in the barn or transporting goods from the estate, to be deducted in this case?

VIII. Are food and small gifts customarily given to the workers who transport these goods to the house to be deducted in this case?

IX. Are the expenses of travel for a pastor who goes outside the parish boundaries to inspect property and conduct other business to be deducted in this case?

X. Is the salary of an administrator who assists the pastor in managing the estate to be deducted in this case?

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XI. Is the salary of a servant to be deducted if he also works in the fields of the estate, cultivating the land and gathering crops, in this case?

XII. Is the loss of profit from seeds, livestock, and other goods, commonly called "scorte," to be deducted in this case?

XIII. Is the loss due to the insolvency of tenants or other debtors to be deducted in this case?

XIV. Is a calculation to be made over a period of ten years to determine the annual value of the benefice in this case?

XV. Is a record of revenues to be sworn to by the beneficiaries in this case?

On December 17, 1836, the Most Reverend Fathers responded as follows:

To I: After deliberation with the Holy See, at their discretion, regarding the remaining questions, according to the vote of the Most Reverend Relator, namely:

To II: Affirmative.

To III: Affirmative, provided that the revenues of the benefice exceed the sum of seven florins of gold from the Camera.

To IV: Affirmative.

To V: Negative.

To VI: Negative, only with regard to uncertain revenues, and let a decree be given as in Palermo in the month of October, 1687.

To VII: Affirmative.

To VIII: Affirmative.

To IX: Negative.

To X: Negative, except in cases of necessity.

To XI: Affirmative, provided that he takes the place of another worker.

To XII: Affirmative.

To XIII: Negative.

To XIV: Affirmative.

To XV: Affirmative, according to the vote of all the Most Reverend Relators.

[*Latin ed. p. 116*]

APPENDIX III CONCERNING JULIANA OF CORNELION, NOW HOLY, REGARDING THE INSTITUTION OF THE MOST HOLY BODY OF OUR LORD. All that follows has been taken verbatim from the summary which the Sacred Prelates of Belgium presented to the Holy Congregation in the cause, as explained above. Juliana, born in the year of Our Lord 1193 to Henry as father and Frescenda as mother, and regenerated by the waters of baptism at Retinnae, in the district of Liège, was first educated there, and then embraced the religious life of

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Saint Augustine in the monastery and hospital which was at the foot of Mount Cornelion (so called from the crags growing there) near the town of Liège. There, upon the nuns' unanimous desire, she was appointed prioress, at the probable age of thirty, around the year 1253, and, along with her companions, was driven into exile by the envy of wicked men. She remained for some time with the Cistercian nuns of Robert-Mont, Vallis-Ben, and Vallis-B. Mary. Then, enduring the unjust persecutions with great fortitude, she was forced to depart for Namur, where she lived in extreme poverty with her companions. After the pious deaths of two of the countesses, Blessed Agnes and Ozilia, she was finally kindly received by the venerable Lady Himana, sister of Conrad of Hochstade, the Archbishop of Cologne, and abbess of the monastery of Salesina, near the castle of Namur. But when war broke out, and the Salesina community was dispersed, the aforementioned abbess led the Virgin of Christ, whom she had sheltered, to the town of Fossae Sabim between the rivers Sambre and Meuse. Therefore, Juliana spent the remainder of her life at Fossae, in a hermitage adjacent to the church, and there, as she had lived, she died on Holy Saturday, April 5th of the year 1258, at the age of sixty-six. The following day, her lifeless body, placed in a cart by Abbot Gobert, a monk who had come from Villaria, was transported, accompanied by the abbess of Salesina, to the Cistercian monastery of Villaria in the Duchy of Brabant, and there, as living Juliana had ordered, she was laid to rest in peace near the main altar of the church. But concerning all of these things, and concerning the miracles wrought through the intercession of Saint Juliana, one should consult the contemporary author of her Life, found in the Bollandist Acts of the Saints, April, Volume I, on the 5th day.

[*Latin ed. p. 117*]

APPENDIX III of that month, pages 443-477. It is fitting to add something from the preface of that life. "But perhaps someone will say: If there is such a lack of holy men in these times, where will a holy woman be found? If it pleases you, I will present one virgin, whom our age has almost brought forth like a lily, a virgin, as the Apostle says, holy in body and spirit. This is Juliana, who just a few days ago was taken from this world and is worthy to be brought to mind for the edification of the faithful. She, forgetting bodily weakness, but also her sex, hastened to the heights of perfection and attained them. She hastened through profound humility, and in a weak and almost useless body, she attained the highest perfection. Therefore, I will briefly recount, in whatever style, about this virgin, writing a few things about her life and holy conduct, about the practice and progress of virtues, about her affections and the revelations made to her..." What is written was known and reported by venerable and trustworthy persons." Page 444. Furthermore, in Book II, chapter II, the same author writes about the famous vision of St. Juliana: "From her youth, whenever the Virgin

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Juliana devoted herself to prayer, a great and wonderful sign appeared to her. I say, it appeared to her, the moon in its splendor, with a slight fracture of its spherical body... Christ revealed to her, in the moon, the Church, and in the fracture of the moon, the lack of one solemnity in the Church, which He still wished to be celebrated on earth by His faithful. And He made it known that this was His will, namely... that the institution of the Sacrament of His Body and Blood should be solemnly and specially remembered each year, more so than at the Lord's Supper... When Christ revealed this to His Virgin, He commanded her to announce this to the world." Page 459. Therefore, Juliana, frequently refreshed by a heavenly vision and warned by the divine Bridegroom, having perceived that the Church lacked a more solemn and general feast of the Holy Eucharist, after more than twenty years had passed since the first vision, revealed everything to the most religious, learned, and wise priest, John of Lausenna, Canon of St. Martin in Louny. This priest encouraged the humble and hesitant virgin, urging her to consult with theologians about the revelation she had received, and to seek what was necessary from the Bishops. They therefore turned (let us remain silent about many others) to the most learned Chancellor of Paris; to three Saints.

[*Latin ed. p. 118*]

118 APPENDIX III. Theologians from the Order of Preachers, namely, Brothers Aegidium, Ioannes, and Gerard; to Brother Hugonem, then Provincial Prior of that Order, who afterwards, for his merits, was adorned with the Roman purple by Innocent IV and held the dignity of Apostolic legate, celebrated under the name of Hugo of St. Caro, Cardinal Priest of the title of St. Sabina; also to Guiardus (also known as Guidonem) of Lauduno, Bishop of Cameracensem, and to Robertus of Torota, from Lingonensi, Bishop of Leodiensem. Especially consulted was Jacobus Pantaleon, by birth from Trecassensis, then Archdeacon of Leodiensem, afterwards Bishop of Vidunensis (1252), Patriarch of Hierosolymitanus (1255), and finally, after the death of Alexander IV, raised to the Papal See under the name of Urban IV (1261). The vision of Cornelionensis was approved by all concerning the new feast of the Body of Christ. "Indeed, as the praised hagiographer states, after having carefully heard, understood, and examined the merits of the aforementioned individuals, they unanimously declared that no effective reason could be found in divine law why the special feast of the venerable Sacrament should not be celebrated. Rather, it would be most fitting and just, and also to the honor of God, and for the benefit and grace of the elect, if the memory of the institution of the Sacrament itself were celebrated more solemnly and specially by the Church each year, than had been the case up to that time." Those who promoted the divine counsel, which had been revealed to Julianae through supernatural signs, as stated by the author of the

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life of St. Julianae, cited in Bolland 1, page 460, were: Robertus of Torota, Bishop of Leodiensem; two Cardinals as legates, Hugo of St. Caro and his successor, Peter Capoccius, called Cardinal of St. George in Velabro; and finally, Pope Urban IV, who, while residing in Urbevetere with the Apostolic Court, promulgated the constitution by which the general feast was established; and St. Thomas Aquinas, then teaching sacred disciplines in that same city, gave instructions that the liturgical office, which the Church now uses, should be written. But those who wish to learn about the great merits of all these individuals for the Church should consult the Bollandists and other scholars who have written about the life of St. Julianae or about the origin of the feast. Robertus of Torota, whom I have praised above, wrote a letter to both the clergy of his vast diocese in the year 1246 of Our Lord.

[*Latin ed. p. 119*]

APPENDIX III, wherein it is decreed that the solemn feast of the Eucharist be celebrated annually in each of the spiritual churches within his jurisdiction, concerning the ineffable Sacrament. He died in Fossae on October 19, 1246. "Before I depart from this life," said Benedict XIV, "I have desired that this new solemnity be established, so that I may see it celebrated." Saint Juliana experienced a similar, indeed a far greater, joy. This saint, before ascending to Heaven, revealed a heavenly secret and earnestly commended the execution of the divine plan to a devoted friend, named Eva, who was then living a secluded life with Saint Martin in Monte Leodiensi. Therefore, after the death of Saint Juliana, Urban IV, through a constitution beginning with the words "Transiturus ex hoc mundo," and to which Benedict XIV, according to the records of Vatican, assigned the date of August 8, 1264, decreed that a special commemoration of the vivifying Sacrament of the Altar should be held each year in the Church. "Indeed, we understood long ago," said the Pope, "while we were still in a lower office, that this feast was revealed to certain Catholics, and that it should be generally celebrated in the Church." With these words, Urban IV clearly indicates that he, even before he held the office of archdeacon in the Cathedral of Leodiensi, had understood the will of the Almighty God, and that he had no doubt that (as the words of the martyrology of Cîteaux, page 12, state) "Juliana, illuminated by divine revelations, brought about the institution of the feast of the Most Holy Body of Christ." Then, the praised Pope, as a pious helper to the Blessed Eva, formerly the devoted friend of the deceased Saint Juliana, granted her letters in the form of an Apostolic Brief (Know, O daughter), in which he announced the promulgation of his constitution. "And know," the Pope adds, "that we have judged it fitting to celebrate this feast with all our brothers of the Sacred Roman Church, namely the Cardinals, as well as with all the Archbishops and Bishops, and other prelates of the Church, who are then residing at the Apostolic

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See (so that, by seeing and hearing of the celebration of such a great feast, a wholesome example may be provided)." These words of the Apostolic Brief are also cited by Benedict XIV in his excellent treatise "De festis D. N. Iesu Christi." The Apostolic Brief was given to Eva, living in seclusion in Urbevetere, on September 8, 1264, shortly before the death of Urban IV; for he departed this life on the day before the Kalends of October of the same year. It is also fitting to mention here that Urban IV, along with the Brief, also designated a wonderful and

[*Latin ed. p. 120*]

120 APPENDIX III. The most divine office, which was composed by the Angelic Doctor, Saint Thomas Aquinas, for the praise of the Most Holy Sacrament, is affirmed by Benedict XIV in his work *De Festis*, besides other learned men of the Church. When, during a time of war in Italy, the annual feast of the Body of Christ, instituted by Urban IV, began to be widely neglected, so that it was celebrated nowhere else than in the diocese of Liège, the Bull of Urban was revived by Clement V at the Council of Vienne in the year 1311 (1), and he ordered it to be observed anew. This constitution of Clement was confirmed by his successor, John XXII. Furthermore, Martin V (in the year 1429) and Eugene IV (in the year 1433), and other Popes, considered it fitting to confirm and extend all these things, generously using the treasures of the Holy Church. The Solemnity of the Jubilee was celebrated in the year 1846 with unusual splendor and for the great good of souls, by the Most Illustrious and Reverend Monsignor Cornelius Richard Anthony Van Bommel, a worthy successor of Robert and the immediate predecessor of Theodore Alexis Joseph. It is fitting for those who are interested to read what was written in Liège in the year 1846 in the pamphlet: *Les origines de la Fète-Dieu*, by V. Dechamps, of the Congregation of the Most Holy Redeemer. On page 158, the author writes: "It is the glory of Liège to be able to say to the universe: 'It is from me that this brilliant protestation of Catholicism against the future apostasy of the sects of the 16th century originated; it is I who gave the signal to this great movement of faith that endures always and will endure until the end of time.' Yes, it is with a holy pride that, entering the sanctuary of Mont Cornillon where Juliana prayed, and the basilica of Saint Martin where the great voice of the papacy came to Eve, the poor recluse, to announce the extension of the Feast of God to the universal Church; it is with a holy pride that Liège can say alone among all Christian cities: 'Behold the source of the great river of adoration and love that irrigates both worlds.'" Edition 2. Tornaci, 1864. This is sufficient; perhaps we will refer in another Appendix to the principal documents that show the antiquity and extension of the public cult of Saint Juliana in the Church. (i) *De mentitis*. If the Lord

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Deuteronomy 13:16.

[*Latin ed. p. 121*]

LETTER. TO THE MOST HOLY FATHER ADDRESSED TO THE ARCHBISHOP OF WESTMINSTER!* TO THE VENERABLE BROTHER, HENRY EDWARD, ARCHBISHOP OF WESTMINSTER, FROM HIS HOLINESS, POPE PIUS IX. Venerable Brother, Greetings and Apostolic Benediction. ”We have learned, through reports, that Doctor Gumming of Scotland inquired of you whether, in the future Council, those who dissent should be given the power to present arguments that support their opinions; and that you responded that this matter must be decided by Us, and that you have written to Us about this. However, if those who inquire do not understand the faith of Catholics concerning the teaching of Our Divine Savior, which He entrusted to His Church, and concerning the infallibility of that Church in defining matters of dogma and morals, they must surely doubt whether the Church itself should again be subjected to discussion of errors that it has diligently examined, judged, and condemned. And Our letters can suggest nothing else. For when We said, ’No one can deny or doubt that Christ Jesus, ’in order to apply the fruits of His redemption to all human generations,’ ’built His Church upon Peter alone on earth,’ that is, one Church, ’one, holy, catholic, and apostolic,’ and that He provided it with all the necessary means ’to safeguard the deposit of faith intact and inviolate, and to transmit that same faith to all peoples, nations, and tongues’; We thereby declared that the primacy, not of honor alone, but also of jurisdiction, was conferred upon Peter and his successors by the Founder of the Church. But this, indeed, is the very cornerstone upon which the entire question rests between Catholics and all who dissent; and from this dissent flow all the errors of non-Catholics. ’For such societies lack that living and divinely constituted authority which teaches, and directs, and governs men in all matters pertaining to the discipline of faith and morals, and which guides them in all things that pertain to eternal salvation; therefore, such societies will constantly vary in their doctrines, and this instability and change will never cease within those same societies.’ Whether those who inquired consider the judgment that the Church holds regarding its own infallibility in defining matters of faith and morals, or what We have written concerning the non-reversal of Peter’s primacy and his teaching, they will immediately understand that there is no place for the patronage of condemned errors in the Council, nor could We have invited non-Catholics to debate, but rather, that they may ’seize the opportunity of this Council, by which the Catholic Church, to which their ancestors belonged, exhibits a new proof of its intimate unity and its impregnable vital strength; and, responding to the needs of their hearts, they may strive to free themselves from that state in which they cannot be secure of their own salvation.’ If, with the help of divine

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grace, they perceive their own error, if they seek God with all their heart, they will easily abandon any preconceived opinion, however adverse, and, immediately abandoning all desire to debate, they will return to the Father from whom they have long been alienated. We, for Our part, will gladly welcome them, embracing them with paternal charity, and We will rejoice to congratulate the entire Church, because Our children, who were dead, have come to life, and those who were lost have been found. This, indeed, We earnestly ask of God; and you, Venerable Brother, join your prayers to Ours. In the meantime, as a pledge of divine favor and of Our most heartfelt benevolence, We impart to you and to your entire Diocese the Apostolic Benediction." Given at Rome, at St. Peter's, on the 4th of September, 1869, in the twenty-fourth year of Our Pontificate. PIUS PP. IX.

[*Latin ed. p. 122*]

FROM THE SACRED CONGREGATION FOR THE NULLIFICATION OF CANONICAL PROCEEDINGS CONCERNING THE SUBSTITUTION OF ECCLESIASTICAL BENEFICE, dated 4 September 1869. Summary of the case: Peter N. had been promoted to the higher sacred orders with the title of an ecclesiastical benefice established by his father and grandfather. He received Holy Orders from the Bishop and obtained a certain benefice, which had formerly been a parish, but afterwards, with the suppression of parishes in that region, became a vicarial benefice and was subject to the will of the Bishop. For just reasons, he then requested the Bishop to substitute said benefice for the family patrimony; and a decree was issued by the court on 11 August 1858, by which the substitution was made, with the addition of a clause whereby the court reserved the right to consider, according to the sacred canons, the matter of the removability of said benefice. Peter, holding the said benefice as his title, increased the income of the same for his extraordinary expenses and needs. In the year 1863, when certain things reached the ears of the Bishop, which were detrimental to the reputation and esteem of Peter, the Bishop advised him to renounce that vicarial office, lest, if a process were instituted, his reputation would be exposed to danger. Peter obeyed the Bishop's advice and resigned the benefice; and in order that he might not remain without a title, he requested that an annual pension be assigned to him from the same benefice of 130 florins; for the said benefice, having undergone extraordinary improvements, now yields an income of 489 florins per year. Peter's wishes were granted in some measure: for, after the decree was issued, a pension of 105 florins per year was granted to him from the said benefice; however, it was added that this pension should be conferred upon him as an "aerial" pension, as it were, with these words: "that the right to receive said annual 105 florins shall be held as of the same nature, and shall be held in practice as a right derived

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from the title of patrimony."

[*Latin ed. p. 123*]

ON THE SUBSTITUTION OF BENEFICES, DECREE 123: Therefore, Peter will not be able to demand said pension, either in whole or in part, unless through a declaration issued by this court, quarter by quarter. Matters proceeded in this manner until the year 1867. At that time, Joseph, who had been supporting him with the benefice, bearing the burden of said annual pension with difficulty, petitioned the Bishop to release him from it; and he requested this especially because Peter, residing in another city and devoted to teaching at a certain college, received an annual income of 777 livres, in addition to food and lodging. The Bishop did not grant his prayers; however, the following year, when Joseph more urgently insisted that he be temporarily relieved from paying the pension, as long as Peter was engaged in the work of a teacher at said college, on March 8, 1868, he obtained a decree by which he was temporarily relieved from paying the pension. But Peter bore this poorly; and therefore, he addressed prayers to the Holy See, in which he requested, first, that the irregular substitution of the sacred patrimony made on August 11, 1858, be declared invalid; and second, that the decree by which he was deprived of the customary receipt of the pension be annulled. Two doubts, to be observed, were proposed to the Sacred Congregation, which are set forth below. SYNOPTIC DISCUSSION. DEFENSE OF THE CURIA. Regarding the first point, the Notification 6, n. 1 of Prosper Lambertini, or Benedict XIV, was cited, the words of which Notification are as follows: "Within the aforementioned terms (of necessity and utility of the Church), the ordination title may also admit of an 'Officiatura' or movable chaplaincy, provided that it is sufficient according to the synodal tax, and provided that he who has the right to nominate is bound by our authority (episcopal) not to remove him who has been nominated, as long as he lives, or as long as he can live by other means, that is to say, either by means of a benefice or patrimony, and provided that a suitable guarantor is given, who obligates himself to support the ordained man, if he is prevented or cannot celebrate Mass": The curia argues that a vicarial and movable benefice can indeed be established as an ordination title, if necessity and the utility of the Church require it.

[*Latin ed. p. 124*]

124 CONCERNING THE INVALIDATION of the substitution; this matter holds even more weight if the Ordinary's caution regarding the need to provide for him is added. However, there is no doubt that this necessity and utility existed in that diocese, since almost all those who began their studies for the priesthood were poor, and the same diocese greatly lacked priests. If Peter was assigned a pension of a smaller amount than he had requested, this was not done without reason: for he had so renounced the

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benefits of the vicariate that he was rather to be considered removed from it, since he led a life that was excessively free; the endowments made by him spontaneously were to be relinquished by the endowment itself, not by the beneficiary; on the other hand, when a pension is imposed on an ecclesiastical benefice, it is a burden that should be as small as possible, given the law that benefices are to be conferred without diminution; therefore, the pension imposed was that which most closely corresponded to the synodal tax. Furthermore, Peter was the one who requested the substitution of family property for that benefice, and he subsequently requested a pension, which, once assigned, he received for a long period of time; and it is not permissible for anyone to go against their own actions. Regarding the second doubt raised by the court, it was noted that the pension assigned to Peter was of an "aerarial" nature, that is, one that pertains to its character rather than to the practical application of the right inherent in the title of aerarial property: and that the nature of aerarial property is such that, if a priest should at some time have another means of supporting himself appropriately, the government should withdraw the pension; and there is no objection to such a title; indeed, all the bishops of that province to which the court in question belongs, are accustomed to use this title. With these things established, two things must be distinguished: the fact of receiving the pension, and the right or title to receive it: indeed, the pension was suspended by decree; but the title remained unchanged, so that, if Peter should at some time not have another means of supporting himself appropriately, that same pension would be due to him. However, since Peter now lives comfortably from other sources, there is no reason why the amount of the pension assigned to him should be reconsidered. THE RIGHTS OF PETER. Here, conversely, the argument is made that the substitution of family property for the benefice was irregular, being a benefice that could be removed at the will of the grantor.

[*Latin ed. p. 125*]

REGARDING SACRED PROPERTY 125. For, according to the sacred canons, the title of sacred ordination ought, by its very nature, to be perpetual, as the commentators on the canons commonly teach; but the vicariate which replaced the patrimony was not of this kind. Furthermore, Peter argued that, even if this substitution were considered legitimate, the pension granted upon the dismissal of the benefice had been unjustly diminished: for it was evident that the benefice, through extraordinary expenses incurred from its own revenues, had changed its condition to such an extent that, whereas it formerly yielded only 359 florins, it now yielded 489 florins. He maintained that, if it were established in law that improvements made on another's land belong to the land itself, it should also be established that no one ought to profit from another's loss; and therefore, citing the Canonists with Rodamo, *de reb. eccles.,* question 17, he argued that ex-

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penses and improvements made on church property, and which increase the value of the property beyond what it had at the time of its concession, should not, without any consideration, be taken away, especially since they were made at considerable expense, with industry, labor, and the expenditure of the beneficiary's time. He stated that he had spent 2450 florins on that vicariate benefice. Regarding the second point, he argued that the decree of the court, which suspended the payment of the assigned pension, should be overturned. For it is certain that no one can be deprived of an ecclesiastical benefice, even if it is removable, without a reasonable cause; therefore, without a pre-existing reasonable cause, no one can be deprived of a pension due from any benefice; since it is certain that the assigned pension is to be considered as belonging to the benefice in place of the benefice itself, and is to follow the rules of that benefice: *Garzias de Benef.*, chapter 5, number 121. Nor can the court maintain a distinction between the right to receive a pension and the act of receiving it, since this subtle distinction is not in conformity with the sacred canons. For, since the pension is nothing other than a part of the benefice, and the benefice is nothing other than the right to receive the fruits, etc., it must be said that he who is legitimately prohibited from actually receiving the pension has, in effect, lost his right to the pension. It is, indeed, intimately connected, according to the teaching of the sacred canons, the right to receive with the act of receiving. Besides these and other arguments presented by both sides, some additional points were raised concerning the doctrine of the title of sacred ordination. It was noted that it was unknown in the ancient Church...

[*Latin ed. p. 126*]

126 FULL of the notion of substitution, is the title of family property, which the Church now uses: for, according to the ancient discipline, no one could be admitted to the sacred orders, unless he was assigned to a church, from whose revenues he should receive suitable sustenance. The title of family property began to gain strength when, in the Lateran Council under Alexander III, it was decreed: "If a bishop ordains someone to the diaconate or presbyterate without a certain title, from which he may receive the necessities of life, he must provide for those necessities until he is assigned to a church where he can receive suitable stipends for his clerical service, unless that one who is ordained has sufficient means from his own or paternal inheritance." As it is read in chapter "De Praebend," concerning the bishop. The Council of Trent also confirmed this, as can be seen in chapter 2 of session 23 concerning Reform. These laws having been established, the commentators on the sacred canons often infer that the title of property or pension is merely subsidiary; especially after the alleged Tridentine disposition, because it is considered that the indifferent faculty in Chapter "De Praebend" was abolished, by which anyone could

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previously be ordained equally, whether to a title of property or of benefice. However, it has been established and approved in canonical discipline that the property title must consist of stable and productive assets, and not that it is considered a legitimate property that consists of revenues derived from ingenuity and industry. Regarding this matter, a doubt was presented to the Sacred Congregation of Councils in Siguntina, by the Sacred Orders, in October 1589, with these words: "If someone has only what he earns through industry or honest labor, such as if he is a musician, a grammar teacher, a painter, a writer, or another lawful profession, and this is sufficient for the sustenance of life, can he be promoted?" The Sacred Congregation responded: "No" (Decree 11, page 53). Nor can property regularly consist of movable goods, as is stated in Monopoli, November 18, 1769, §. Property, and it is explained by Riganti in "Reg. Cancellariae," 24, § 5 and following. However, property can consist of movable goods, when these movable goods are equivalent to immovable goods in value. Indeed, among the titles required for ordination, the office of chaplain is found, with perpetual stipends: but when this is required, it is necessary...

[*Latin ed. p. 127*]

127. The sacred patrimony pertains to the benefit of the church, and thus, if the matter concerns a removable chaplaincy, the revenues of which equal the synodal tax, the one who has the right to nominate must, with the authority of the Bishop intervening, give his pledge: that the one who is nominated will remain in that position as long as he lives, according to what is also written in the aforementioned Institution 26 of Prosper Lambertini, or Benedict XIV. With these considerations in mind, the proposed questions must be resolved. Doubts. I. "Whether the substitution of the sacred patrimony by the Bishop, made on August 11, 1858, is to be approved in this case: 'And to the extent that it is affirmative.' II. 'Whether the decree issued by the Bishop on March 8, 1868, is to be maintained in this case.' RESOLUTION. The Sacred Congregation of the Council judged that it should respond as follows on September 4, 1869: To I. Affirmative. To II. Negative. a From which the following may be gathered: I. It is not doubtful that a church benefice can be substituted for a family patrimony by the authority of the Bishop. II. Nor is it doubtful that a benefice, by the will of the Bishop, can be constituted as removable by the authority of the same Bishop, in the title of Holy Orders. III. Indeed, the collation of a removable benefice, freely and absolutely made by episcopal authority to someone in the title of Holy Orders, seems to acquire, by that very fact, the nature of perpetuity, which must adhere to that title. IV. Nor is it doubtful that a suitable pension can be conferred from a church benefice in the title of Holy Orders. V. Indeed, both a removable benefice and a pension can be conferred under a condition, whether implicit or explicit, in the title of Holy Orders, so that both cease to be such if another legitimate title for

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ordination is obtained (1). (1) Compare the case that I cited in vol. II, p. 535, and another in vol. IV, p. 353.

[*Latin ed. p. 128*]

VI. Tamen, legitimus titulus sacrae ordinationis non potest esse confertur sub conditione, ut cesset, vel ut suspensus maneat, nisi alius titulus legitimus rite substituatur.

VII. Et haec conditio, si alicubi adiecta fuerit, tanquam non adiecta censeri debet.

VIII. Neque possunt constituere legitimum titulum sacrae ordinationis proventus industriales.

IX. In praesenti questione, triplicem factam fuisse tituli substitutionem: primam, patrimonii in beneficium; secundam, beneficium in pensionem; tertiam, pensionem in proventus industriales, quamquam haec tertia ad tempus facta fuerit.

X. Sacra Congregatio primam et secundam admissit; vero tertiam reprobavit.

[*Latin ed. p. 129*]

On the twenty-third day of January, in the year 1869. Cf. *Compendium facti*. In the region of C, within the diocese of N, there exists a parish church, the administration of which is entrusted to an Archpriest and six assistant priests, who possess benefices subject to the patronage of the region. Furthermore, within the same church, there exists a certain common fund of revenues, which is shared equally by the Archpriest and the aforementioned six assistant priests, as well as by certain simple priests who are natives of the area, who are assigned to the service of said church, having obtained permission, and who, by the title of assignment, are initiated into the sacred orders of the same church: and these portions, and whatever else may arise from funerals and similar offices, are distributed among the present members. Two of the most recently assigned priests, by ancient custom, are to sit in the innermost stalls of the choir, and are obligated to perform the duties of the ministers during solemn Masses and Vespers. Among such assigned priests was Francis, who was co-opted at the time he received the sacred orders, namely, in the year 1832. However, he remained in this service for only a short time: for, after a few months, having obtained permission from the Bishop, he departed from his homeland, transferring himself, along with his belongings, to another town in another diocese, and he never performed the duties incumbent upon the aforementioned assigned priests. It is not known whether he obtained permission for a longer absence: it is certain that Francis returned to his homeland after thirty-five years. He approached the Vicarius Capitularis, from whom he requested that he be co-opted again into said church. The Vicarius Capitularis, having approved of his request, referred the matter to the clergy of said church, to

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whom a petition from Francis had been sent. The clergy of said church did indeed accept Father Francis, but in such a way that he would hold the last place among the assigned priests, as if he were being received for the first time. Francis bore this with a heavy heart, and, for reasons given, he requested the Vicarius Capitularis to, by his authority, order that he be... (the text is incomplete).

[*Latin ed. p. 130*]

130 Those privileges pertaining to the Clergy are to be granted in that place and to that degree which their age, from the year of their sacred ordination, would require. Therefore, after Francis had presented his rights before the Vicarius Capitulari, and after the Clergy of that church, and Francis, the Vicarius, had considered the matter, a Decree was issued with the following wording: "1. Since it is established that Francis N. has been absent from his homeland for thirty years and more, which is more than sufficient for the purpose; 2. Since it is not established that the consent of the Clergy was obtained, and, what is more, it is not established that the consent of the Ordinary was obtained; 3. Since, due to his long absence from his church, a strong presumption arises that he has tacitly renounced any right that belonged to him by reason of his previous incardination; and this presumption would be even stronger, given the first petition in which he demonstrated that he believed a new cooptation was necessary; 4. Since, on the contrary, it is not only a matter of the right of precedence, but rather of avoiding a certain burden, since the last Presbyters are subjected to particular burdens; 5. Since the door would be opened to fraud and deceit if Francis were preferred to others who were ordained later, which each Presbyter could profitably seek; for these reasons, we approve the deliberation made by the Clergy, and we order that it be carried out, either with regard to the first part, or with regard to the second part. Since this Decree did not satisfy Francis, he appealed to the Holy See, and, with due observance of the proper procedures, the controversy was presented before the Sacred Congregation. A concise discussion. THE RIGHTS OF THE CLERGY. The Patron of the Clergy wrote many things beyond what was necessary in defense of his Clergy, of which the most important points are these. He pointed out, first of all, that in this court of justice, the matter was not about obtaining reintegration by right: 1. that Francis had contested the case regarding the request he had made for the sake of grace, to be received again into the church; and that this excluded a question of law; 2. that, after the Clergy had granted the grace of reception, he had acted before the Vicarius Capitulari against the second "part of the resolution of the Clergy, in which the last place was granted to him; 3. that, from the series of acts before the Sacred Congregation, it appeared that he was asking for the same grace, although he seemed to want to act by right,

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through words such as "that he may be reintegrated."

[*Latin ed. p. 131*]

Regarding the privileges, he possessed all his rights. However, the Advocate stated that these words should not be taken into consideration, based on the well-known principle that in legal proceedings, one begins as if – against; therefore, the document could not be changed after the commencement of the legal dispute. Having stated these premises, he observed that Francis, through his prolonged absence, had lost any right that he had acquired through assignment; and he sought to demonstrate this from various chapters of law, such as from Chapter "Extirpandae," Section: "He who has a parochial church should serve it himself, in order, as the care of that church requires... otherwise, he should know that, by the authority of this Decree, he is deprived of it, and it can freely be granted to another who wishes and is able to fulfill it." Also, in Chapter "Ex gestis," concerning Clerics who do not reside in their assigned posts, there is the Decree of Leo III, promulgated in a synod, which reads as follows: "In the synod, Anastasius, a Cardinal Priest of the title of Saint Marcellus, was canonically deposed, because for five years he had deserted his parish, contrary to the institutions of the canons, and he still resides elsewhere." Furthermore, since Francis has deserted the church not for five years, but for thirty-five years, he has, by that very fact, been deprived of his right; at least through tacit renunciation, since this can occur not only through explicit words, but also through open actions, which are more eloquent than words. Renunciation has the effect of making it so that a benefice or any other right, to which one has renounced, cannot be reclaimed by the former title. With this point of the question thus resolved, he argued that, consequently, according to the second point of the question, it follows that Francis could not legally demand the precedence. However, when Francis invoked a Resolution of the Sacred Congregation of Rites, issued in defense of his case, in the matter of Trivento, on March 29, 1659, which is found in the Gardellin collection, and which reads: "The Sacred Congregation, as in similar cases, declared: Among simple priests, who do not enjoy any privileges, the priority of the received order of the priesthood must be considered, with no regard given to any priority held in the order of subdeacon or deacon. And it ordered that this be observed in the diocese of Trivento in the territory of Alfidenza," the Defender replied that this Resolution was not applicable in the present case.

[*Latin ed. p. 132*]

132 The question of precedence cannot be invoked, since it has its place when two or more individuals have acquired possession on the same day, and they dispute which of them has precedence; but not when permission is granted for advancement from a lower to a higher grade, in which case it

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is necessary to consider the time of acquisition of possession among those who are equal in rank by reason of Holy Orders, as the Sacred Congregation responded in the case of the City of Grado, of Saint Mary of the Martyrs, on the same day and year. DEFENSE OF FRANCIS. Francis argued that he must be integrated into the exercise of all his rights; for integration must be granted to him who is in possession, or in quasi-possession. Indeed, he had remained in quasi-possession of his rights when, being about to leave his homeland, he requested permission from the Bishop, and obtained it, so that he might legitimately be absent; and he had obtained the same permission again in the year 1847. It cannot be said that the permission granted was for a year, and that it expired after that year: for, since the Bishop had always remained silent about his absence, it must be considered that he tacitly extended that permission. Furthermore, the matter concerned the removal from possession; but it is certain that no one can legally remove someone from possession, unless that person has first been put in default, that is, unless a term has been set for him to fulfill that default; if he does not, after that term has elapsed, he will lose his possession. Furthermore, Francis invoked custom, citing several examples of priests who, although they had left that church and homeland for a long period of time, nevertheless, when they returned, were restored to the exercise of their rights; and he stated that no one was ignorant of how much weight should be given to custom and practice in such matters concerning precedence. Finally, he appealed to the Resolution of the Sacred Congregation of Sacred Rites, which I have explained above. With these and other observations, the purpose is to resolve the doubt. "Whether and how the decree of the episcopal court should be confirmed, or annulled, in this case."

[*Latin ed. p. 133*]

RESOLUTION OF PRECEDING POINTS 133. The Sacred Congregation of Councils, having knowledge of the matter on January 23, 1869, judged that the decree should be confirmed and further clarified (1). FROM WHICH THE FOLLOWING ARE DEDUCED: I. Those who are assigned to a particular church, in which the right to precedence or to be honored is granted, cannot rightfully claim this precedence if, at the time the opportunity for such precedence arises, they do not reside there. II. It is of no consequence whether they were absent legitimately or illegitimately, provided that the granting of precedence for honors is based on the service rendered to the church, whether actually performed or intended to be performed. III. In the present case, the Reverend Father Francis, due to a prolonged absence voluntarily undertaken, appears to have fallen into a situation in which, according to the Holy Canons, not only is the right of precedence lost, but even the right of assignment itself becomes difficult to maintain. IV. For he who, for a long time, voluntarily departs from the

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church to which he is bound to serve, is considered to have deserted it, and by that very act, has renounced his rights. (1) It may perhaps seem strange to some that the Holy See should involve itself in such minor matters concerning precedence or the like; but no one will be surprised if they consider that it greatly contributes to ecclesiastical discipline that even the smallest ecclesiastical rights should not be disregarded. On this matter, Saint Leo the Great gave a splendid example in a letter to the Bishop of Dorum, which I cited on occasion in Volume III, page 308, in note 2.

[*Latin ed. p. 134*]

FUNERAL EXPENSES. August 24, 1869. Summary of the case. The Abbot General of the Order, Father, was afflicted by illness in Romae. For the sake of regaining his health, he traveled to another city, which is located approximately thirty Roman miles away and is connected to Romae by a railway. Upon arriving in that city, and residing in a monastery of another Regular Order, C., he died suddenly and unexpectedly. The funeral rites were celebrated in the church of the Order C. In these rites, the local Bishop himself participated, in order to grant the final absolution. After this funeral was completed, the Regulars of the Order N. wished to transport the body of their superior to Romae, so that they might perform the funeral rites with greater solemnity in Romae. However, the Rector of the parish, within whose jurisdiction the aforementioned monastery is located, opposed this, claiming that the fourth day of mourning, as well as the rights pertaining to the deceased, belonged to him. Nevertheless, having been promised that his expenses and rights would be fully compensated, he yielded to the wishes of the Regulars. However, later, the same Regulars of the Order N. refused to pay the fourth day of mourning and, especially, the expenses of transportation. Therefore, the Parish Priest presented a petition to the Sacred Congregation, C., and, according to custom, referred the matter to the Ordinary for information and a decision. After receiving the information, a Decree was issued, as is customary: "Let it be noted, and inform the parties that the disputed matter will be discussed in a plenary session; therefore, if they wish, both parties may present further arguments within a period of forty days."

Summary of the arguments. RIGHTS OF THE PARISH PRIEST. The Parish Priest, claiming that the expenses of the funeral were due to him, stated that his intention was based on law, as the Canonists say (1), that every deceased person within the boundaries of a parish should be brought to the parish church for funeral rites by the Parish Priest within whose parish the death occurred, and there (1) I have explained what is meant by such a customary way of speaking among the Canonists in

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Volume I, page 623, in a note.

[*Latin ed. p. 135*]

FUNERIS EMOLUMENTORUM 135. If a person is to be buried, the full funeral expenses, which belong to the parochial rights, must be paid, provided that they have not chosen to be buried elsewhere, according to the text of the Decretals in chapter 1 concerning burial, chapter "Dilectus" concerning monastic chapels, in chapter 2 concerning parishes, and in Clementine, book 1, title 1, chapter 11. Formerly, § Verum. However, if they have chosen to be buried elsewhere, the canonical portion must be paid to the parochial church, according to the custom of the place, which is called the "fourth" of the funeral expenses. Although the parish priest cannot claim the funeral rights from Religious who die in their own monastery, because they are exempt from the jurisdiction of the parish priest; nevertheless, it is established by law that a Religious who dies outside the monastery, whose church of his Order, in which he is to be buried, is far away, must be buried in the parochial church, within the limits of which he died, unless he has chosen to be buried elsewhere. Indeed, it was argued that the parish priest was subordinate to the Superior General, about whom we are speaking, who had died outside his own monastery, and in a parish that was very far from the church in which he was to be buried by law; and furthermore, he had not chosen a burial place. Therefore, he should have been buried in the parochial church, as are other faithful, according to the text in chapter "Religiosi, de Sepulturis" in 6. Therefore, if this was not done, the parish priest is owed both the "fourth" of the funeral expenses and the association fee. It cannot be objected that the parish priest was not the proper priest of the deceased, nor that he had not administered the sacraments to him; for he who dies without choosing a burial place is to be considered to have wished to be buried in that place where he died, as Reiffenstuel writes, speaking of Regular Canons, in Hh. 3, title 28, number 18, concerning burials: "that if, in such a case, they do not choose a burial place, they are to be buried in the parish in which they die." Nor can it be objected that it does not matter since the parish priest did not stand with the dying man; for he could administer the sacraments to the dying man. Much less can it be said that the body could have been conveniently transferred to Rome, as if from this convenience, nothing was owed to the parish priest, according to the text in chapter 5, in 6: for, according to the meaning of the law, a Religious is considered to have died in a remote place, when he is far from his monastery by a journey of one day: Donatus, de sepult, in ordin, ad regul. tract. 10 q. 2, where he wrote: "If, however, you ask, when is it said that a Religious dies in..."

[*Latin ed. p. 136*]

1S6 ON THE BENEFITS DUE TO THE PARISH PRIEST: "A remote

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place: I say this is understood when the deceased's body is distant from his 'monastery' by a journey of one day, or more." LAWS OF THE REGULAR CANONS. N. E. Conversely, Regular Canons denying the fourth day's offerings, and the rights of association, cited the following passage from chapter "De Sepulturis" in the book "De Religiosis," section 6, where it is stated: "Religious, unless they are so remote from their own monasteries that they cannot conveniently be transported to them when they die, do not (since they have no choice in the matter) choose their own burial place, but must be buried near their monasteries." Furthermore, the authors state: "A Religious is said to die in a remote place, so that he cannot be conveniently transported, when his body is distant from his monastery by a journey of one day, or so distant that it cannot be brought to the monastery without decaying and polluting the air": Ferraris, *verb. sepult.*, n. 41. But this has no bearing in the present matter, since neither the city in which the Superior General died is so distant from Rome that his body could not be brought to Rome within a day; nor would the transportation be inconvenient, especially by railway, which makes even the longest and most arduous journeys very short and easy. With these things established, it follows that the parish priest cannot rightfully demand anything, and this has also been declared by the Sacred Congregation of Bishops and Regular Canons in Bologna, on July 1, 1620. For when it was asked: "Can Religious who die outside the monastery, in the home of their parents (as often happens with Regular Canons), be brought to their church at night by their Superiors, after the parish priest has administered to them the last sacraments, without any word being spoken to the parish priest, and without any parish fees being paid?" The Sacred Congregation responded: "Regular Canons who die outside the cloister can be brought to their churches, even without the consent of the parish priest." The same Sacred Congregation also declared in Pozzuoli, on May 22, 1615, that a parish priest who has administered the Eucharist and Extreme Unction to a sick Regular Canon cannot demand parish fees. DOUBT. "And what fees are to be paid in this case?" ANSWER. The Congregation of the Council, having considered the matter on August 21, 1869, judged that the answer should be: "No, in all cases."

[*Latin ed. p. 137*]

ON THE ADVANTAGES OF FUNERALS 137. From which we gather the following: I. The parish priest, in whose parish a Religious dies unexpectedly, cannot claim the rights pertaining to a funeral, even if it happened that he was obligated to administer the sacraments to that same Religious in his final illness. II. Nor does the parish priest have the right to bury a Religious who dies unexpectedly in his parish, if it is possible to conveniently transfer the body to a church belonging to the Religious's own order. III. For Religious, who have not been forcibly dispersed and are exempt from

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parochial jurisdiction, are considered to have their own proper burial place, which they cannot refuse (1). (1) See also the case which I explained in Volume I, page 163.

[*Latin ed. p. 138*]

FUNERAL ASSESSMENT. August 1st, 1869. A summary of the facts. Many years ago, a dispute arose between the parish priest of the town of N. and its people. The origin of this dispute is to be found in the fact that the Bishop, contrary to the wishes of the townspeople, divided the only parish that existed at that time, dedicated to Saint John, into two: one of which retained the ancient title of Saint John; the other, in the town of N., was established under the invocation of the Most Holy Trinity. The townspeople, attached to the new parish of the Most Holy Trinity, bore this division with difficulty; and, in order to somehow resist the Bishop's decrees, they carried the bodies of the deceased into the parish church of Saint John, and there performed the funeral rites. This manner of acting was a clear violation of parochial rights; and in order to curb this, the Bishop decreed that the parish priest (who was called by that name) could demand a tax of ten florins from those who dared to bring bodies to be buried outside the parish, so that the aforementioned parish priest would perform the funeral in his church, as if the body were present. This decree was also confirmed by royal authority, and was published to the public in the year 1832. From that time until the year 1854, things proceeded without dispute. When the Asiatic cholera raged throughout Italy in the years 1854 and 1855, several inhabitants of the town of N. died, who, as is customary in such circumstances, were, for the sake of public safety, buried without any ceremony or funeral rites, by order and under the care of the civil authorities. However, the aforementioned parish priest, relying on the aforementioned decree, asserted that he had not stood in the way of the proper funeral rites being performed for the deceased, and demanded payment from the parents of the deceased, according to the tax stipulated in the episcopal decree; and when some of these refused to pay, he did not hesitate to bring them before a secular judge, from whom he obtained a favorable judgment.

[*Latin ed. p. 139*]

FUNERAL EXPENSES 139. Indignantibus se ob rem hanc parochianis, ad Reverendissimum et Reverendissimos superiores appellaverunt, et per libellum supplicatum est, utrum in conscientia possent impugnare petitionem Parochi, velne deberent parere huic novo exemplo. Praeterea, petiverunt ut definiretur, utrum eorum Parochus exsequias paroecianorum protrahere suo arbitrio posset; easdemque exsequi, quando ipse maluerit, ut emolumenta peteret. His precibus acceptis, Decretum de more editum est: Episcopo, pro informatione et voto, audito. Parocho in scriptis: et referat, quomodo sese gesserint in iisdem rerum adiunctis

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alii tum propriae, tum adiacentium dioecesium Parochi. Episcopus huic mandato faciens satis, inter cetera rescripsit: in adiacentibus dioecesibus rem processisse, ut in sua dioecesi, excepta paroecia de qua agimus: Parochos scilicet locorum quae infectae fuerunt asiatico morbo, nihil a defunctorum parentibus vel heredibus quaesivisse, cum nullum funus iisdem praestitissent ex prohibitione Gubernii.

SYNOPTIC DISCUSSION.

RIGHTS INVOKED BY THE PAROCH. The Paroch invoked chapter 1 concerning burials, in which Leo III decreed: "Considerantes instituta maiorum patrum, statuimus, ut unumquemque in maiorum suorum sepulcris iacere, ut Patriarcharum exitus docet. Nulli tamen negamus, propriam elicere sepulturam et etiam alienam: Dominus enim et Magister alienam elegit ut propriam. Sed quia dignus est operarius mercede sua, tertiam partem iudicii illi ecclesiae dari censemus, in qua caelesti pabulo refici consuevit, ut, iuxta Apostolum, sint consolationum socii, ut fuerunt passionum, et sic demum ubicumque libitum fuerit eligat sepulturam..."

He also invoked, and especially, the Decree of the Bishop, confirmed by secular authority as well, which I have explained above; and he claimed that this was even more applicable in his case, since he had administered the sacraments without danger to his own life, while the Asiatic plague raged. Therefore, he contended, emoluments for funerals were due to him, whether or not the proper ceremonies had been celebrated. And if, according to this Decree, funeral emoluments were always due to the Paroch, whenever he could not be held culpable...

[*Latin ed. p. 140*]

140. Concerning the funeral expenses, the omission thereof; it is all the more necessary that they be paid, especially when the Parish Priest had declared himself prepared to provide for those funeral rites. He stated that the practice of other dioceses should not be objected to; firstly, because the subjects of those dioceses had spontaneously requested the celebration of funeral ceremonies for their deceased parents; and secondly, because other Parish Priests enjoyed larger incomes, with which they could abundantly provide for their own needs, whereas, on the contrary, his income barely reached five hundred pounds annually, which was not sufficient even for the honest sustenance of life. THE RIGHTS OF PARISHIONERS. However, the parishioners, adhering solely to the aforementioned decree, argued that, by that decree, any fraud against the rights of the Parishioners had been prohibited by the Parish Priest; but that, in the present case, the parishioners had committed no fraud, but had been forced to submit to the public authority, which had ordered that the bodies of the deceased be transferred to the public cemetery without any funeral rites, even against

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the will of the parents of the deceased. Furthermore, they adduced the practice of the same diocese and neighboring ones, from which it was clear that no Parish Priests had demanded funeral expenses from their parishioners in such circumstances. It was also noted that the Parish Priest's request could not be considered unreasonable due to the inadequacy of his income, since such a practice could also occur in other similar parishes; and although his fixed income was small, it was not entirely uncertain, given that the parish consisted of three thousand souls. DOUBT. "Whether and how there is room for the payment of such expenses in this case." RESOLUTION. The Holy Congregation of the Council, having considered the matter on August 21, 1869, decided to respond as follows: The decree of the Bishop of the year 1832 does not affect the Chaplain about whom we are speaking; therefore, the answer is negative in all respects. FROM WHICH WE MAY GATHER: I. The decree of a Bishop, to which perhaps secular authority is added, does not change its nature, but remains a decree of the Bishop. II. A decree issued solely to prevent a certain fraud, ceases to be valid when the reason for the fraud ceases, and therefore, when the reason for the law ceases, the law itself ought to cease.

[*Latin ed. p. 141*]

FUNERAL PROVISIONS, SECTION I, PARAGRAPH 141, SECTION III. From the present resolution, not only is the previously recognized decree now deemed to have lost its force; but even if it had remained in effect, it could not be applied to the aforementioned circumstance.

IV. Therefore, it follows that common law, or common custom, extends only to this point: that in such events of mourning, the parish priest cannot compel the heirs of the deceased to pay the expenses of the funeral (1).

(1) I said: "not to this extent, etc.," because, among Christian peoples, from ancient times, that most pious custom has prevailed of bringing the bodies to the temple with prayers, psalms, the association of clergy, and burning candles and tapers, and of celebrating Masses and other similar things; and it has become widely accepted among the most learned interpreters that the last will of the deceased should not be enforced in that part in which they ordered their body to be buried without any honor instituted by the Church: and also, the custom has prevailed, especially in Rome, that if a funeral is not held, either because the deceased did not previously order it, or because the heirs neglected it, the parish priest may demand the expenses of the funeral according to the dignity, status, and means of each individual, etc. On this matter, there exists a masterful decision of the Sacred Roman Rota, before Molines, on the day of June 15, 1699, concerning funeral matters, which I will provide in its entirety in another

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section, which will certainly contribute greatly to the history of funeral law.

[*Latin ed. p. 142*]

MASSES FOR THE PEOPLE. On September 4, 1869. Summary of Facts. In the city of N., there once existed the parish of Saint Michael, to which, from time immemorial, were attached two other parishes: one of Saint Venantius, and another of Saint Peter. The pastor of Saint Michael, from ancient times, oversaw these two parishes united by a chaplain or coadjutor. This chaplain, especially on feast days, would attend the church of Saint Venantius, celebrating Mass and performing other parochial duties. However, in the course of the years, this manner of acting began to appear burdensome to the pastor, and unresponsive to the desires of the parishioners of Saint Venantius. Therefore, after a meeting between them, it was agreed that the chaplain would be permanently assigned to the church of Saint Venantius, after the parochial buildings had first been constructed or renovated at the expense of the people. For this purpose, a certain income was assigned to the chaplain, to be paid partly by the pastor, and partly by the parishioners of Saint Venantius, in a specified quantity of wheat. It appears that matters proceeded in this manner until the year 1825. At that time, the Bishop, endowed with apostolic authority, suppressed the priory of the church of Saint Michael, and incorporated it into the parish church of Saint Facundus in the same city, along with all rights, properties, honors, and obligations. As I said before, in ancient times, the chaplain was appointed by the pastor; but today, he is no longer appointed by the pastor, but is assigned by the Bishop, and cares for the single church of Saint Venantius. The reason for this, and the year in which it began, are unknown, as is whether and by whom a Mass for the people was applied. It is not surprising that these things are unknown, since, under the rule of the French military, the archives of the church of Saint Michael were given to the flames. However, one thing is certain: after the year 1849, the Bishops demanded that the chaplain offer a Mass for the people; but the orders of the Bishops were never carried out. Therefore, in the year 1868, the current Bishop, in the course of his pastoral visitation, issued the following decree: "Since, from the records of the pastoral visitations of this diocese, and especially the visitation of October 8..."

[*Latin ed. p. 143*]

MISSÆ PRO POPULO 143 « bris 1573, 28 Novembris 1615, 2 Novembris 1638. It is established that the church of St. Venantius is a true parish church; therefore, we declare that the pastor of that church is to offer the Mass for the people. And since, during the Visitation conducted by Us there on 6 November of the past year, we were not made more certain of this fulfillment, we order that, within two months from the date of this decree, the current pastor of that church shall inform Us of the fulfillment, or that

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he shall obtain absolution from the omissions from the Holy Apostolic See: and We also desire that this be applied in the future, as is due. Upon receiving this episcopal decree, the chaplain of St. Venantius, considering himself burdened, offered prayers to the Holy Congregation, in which he requested that it be declared: 1° whether the Mass for the people of St. Venantius ought to be offered on feast days; or rather, whether it would suffice to offer the Mass that the parish priest of St. Facundinus offers; and 2° whether the Mass ought to be to offered by the aforementioned parish priest, rather than by the rector of the church of St. Venantius. Upon receiving this petition, a reply was sent to the Bishop, for this reason, so that, after transmitting a copy of the decree issued during the Visitation and after hearing the parish priest of St. Facundinus, he would report whether the church of St. Venantius was established as a true parish, or rather, whether it was merely a subsidiary church; and that he would make known his opinion on the matter. Having obeyed the commands, the Bishop replied among other things: "I have investigated the nature and character of the church of St. Venantius, as far as the available evidence allows. Although the time when this church was united to St. Michael cannot be known, it is certain that this occurred before the year 1573. From the acts of the Apostolic Visitation of the year 1573, it is clear that this union already existed at that time, and therefore, it is clear that the aforementioned church was a parish church; indeed, it is written: "Without interruption, the same Visitation proceeded to annex the parish church of St. Venantius to the Priory of St. Michael." This is clearer from the prescriptions made to the Prior of St. Michael at that time: for the Bishop wished to provide for the church of St. Venantius, which he calls a parish, through a coadjutor, and he ordered this coadjutor to reside there. Both of the following are derived from this: "The Prior shall add to himself a suitable coadjutor for the office and care of the two parish churches of St. Venantius and St. Peter, which are annexed to his Priory, and he shall provide for the land through a substitute, who shall reside continuously in the very place of St. Venantius."

[*Latin ed. p. 144*]

144. MISSES FOR THE PEOPLE sustain and provide for the needs of the place of St. Peter, since both parishes were not lacking in the number of daughters. Nor is it otherwise in the acts of St. Visitation of the year 1615, when it is read: "The Visitor presented himself to the parochial church of St. Venantius, united to the Priory of St. Michael: the Prior is reprimanded, who does not provide for said church through a resident chaplain in buildings constructed for this purpose at the expense of the parishioners." In the Visitation made by the same Bishop in the year 1638, it is said of the aforementioned church, a member of St. Angel, and it is called a church with the care of souls, with these words: "The aforementioned church is cared for, and the care is exercised by a removable chaplain at the will [of

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the superior]." The same is read in another Visitation by another Bishop, where it is stated: "The Most Reverend... presented himself to the parochial church of St. Venantius, a member of the priory church of St. Michael." The Bishop, according to mandate, questioned the Rector of St. Facundus, who replied: "The parochial church of St. Facundus has been, as a filial church, united to the church of St. Venantius; the same church and land are part of the parish [of that Rector; this is clearly evident from the right that the Rector at the time had to demand all tithes from the parishioners; from the obligation that the same Rector had to give them candles on the feast of the Purification; it is also evident from the title of Chaplain-Curate by which the priest was called who administered that church; from the exemption (as is said) with which the same priest enjoyed, of applying the Mass for the people on feast days before the year 1849; finally, from a certain portion which those parishioners paid to the Chaplain-Curate under the title of office or residence." Such information shows that the Rector of St. Facundus was also the Rector of the church of St. Venantius. However, lacking information, he is unable to give a reason why, after the year 1849, the application of the Mass for the people began for the Chaplain-Curate of that church.

A SYNOPTIC DISCUSSION.

THOSE THINGS WHICH ARE REPROVED BY OFFICE.

Having recalled the teaching of the Council of Trent, chapter 1, session 23, on Reform, in which the Fathers, describing the pastoral office, decreed: "Since it is commanded by divine law to all to whom the care of souls has been entrusted, to recognize their sheep, and to offer sacrifice for them, and to speak the divine..."

[*Latin ed. p. 145*]

145. MISSES OFFERED FOR THE PEOPLE: It is well known that the doctrine of the Holy See constantly declares that the obligation of offering a Mass for the people falls upon the Parish Priests, by reason of their parochial office, as confirmed by the Constitution of Benedict XIV. It has always been observed that the question has often been raised as to whether Parish Priests who are in charge of two united parishes are obliged to offer a Mass, either personally or through others, for the people; and the Holy Congregation has consistently responded that Parish Priests are not exempt from this obligation, except in the case of a plenary and extirpative union, as was declared in Lugo, on February 26, 1774. The doubt proposed was: "Whether Parish Priests who are in charge of two parochial churches are obliged, on Sundays and other feast days, to offer a Mass in each church, either personally or through another, for the people, in the case of..." The

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Most Reverend Fathers judged it proper to respond affirmatively, except only for parishes united by a plenary and extirpative union; and it is to be written to the Bishop. In this instruction, it was ordered to be written to the Bishop of Lugo: "The Sacred Congregation has never doubted that Parish Priests are obliged to offer the aforementioned Mass for the people on each Sunday and feast day in each of the parochial churches, whether they are equally principal or are joined and incorporated; since the offering of only one Mass for the people takes place in those parochial churches which are so united, joined, and incorporated that they become one, with the complete extinction of the title of either." With this established, it was observed that the matter to be investigated was the nature of the union by which the church of Saint Venantius is joined to the church formerly of Saint Michael, now of Saint Facundus. In order that this might be investigated more accurately, various types of unions were considered, which are usually considered in such matters. According to canonical jurisprudence, three types of unions are distinguished, according to the diversity of the manner in which the benefices are united: one in which they are united accessively or by way of subjection, when one is attached to the other, so that, through that annexation or incorporation, it becomes a subordinate, inferior, accessory member, adhering to and dependent on that to which it is united, as is the case in the text in chapter 1, "Because a monastery, of religious houses, and the Glossary, states in chapter 1, 'Ne sede vacant,' words 'Uniendo,' there Fagnanus n. 3, Gonzalez ad Reg. 8 Cancell. and others. Acts, volume V, page LI, 10."

[*Latin ed. p. 146*]

146. MARRIAGES FOR THE PEOPLE. Alia is also united, and this is the principal reason, when two benefices, or two churches, or more, are joined together in such a way that neither is subject to the other, but each retains its own rights, privileges, preeminences, and titles; and this type of union is described by Gonzalez in *Ad Regulam* 8, Gancell. *Glos.* 5, § 7, n. 29: "In the third way, a union is made between two dioceses or churches with regard to the head and governor, so that each remains with its own distinct and separate goods and rights, which are not communicated beforehand, but has only one bishop and governor, and each retains its own privileges and rights and statutes, as happens in the dioceses of Viterbo and Toscanella; for although there are two dioceses, there is only one bishop." And when the bishop writes concerning matters relating to the jurisdiction and administration of the diocese of Viterbo, he calls himself the Bishop of Viterbo and Toscanella; but when he writes concerning matters relating to the diocese of Toscanella, he calls himself the Bishop of Toscanella and Viterbo, always placing the name of the diocese in which the matter under consideration takes place first. This is consistent with Leuren, *Form. benf.* p. 3, section 2, v. 1, question 83, n. 2, who states the

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matter as follows: "But this must be distinguished: namely, that one person can be the rector of two churches in two ways: either accidentally, in this person alone, through some particular commendation, without changing the status of the churches in any way (which union is rather *de facto* than *de iure*, as Card. De Luca calls it in *Trid.*, discussion 8, n. 33), or through a perpetual union of the churches. Card. De Luca, in *Miscell.*, discussion 1, n. 38, also says there, that this latter type of union is more commonly found in cathedrals, which are then truly and in fact considered as two distinct entities, although they have one governor, who, with regard to himself, is said to be one and the same, but with regard to them, is considered as two distinct persons." Finally, Alia is united incorporatively or promiscuously, that is, when one or more benefices are united in such a way that two or more become one, coalescing into a single body; and this incorporative or promiscuous union can be achieved through a special subordination of one to the other through a kind of absorption, or promiscuously through a certain equalization, from which unions result the communication of privileges, so that...

[*Latin ed. p. 147*]

MASSES FOR THE PEOPLE 147. It is understood that, in either Benefice or united church, the greater of the two shall prevail: Pitonius, *Disceptatio Eccles.* 9, 46; and especially Reclus, *J.P.* I, title 11, on the topic of union, n. 130 and following. Having established these three species of union, the Authors are wont to inquire which species of union is to be presumed in a case of doubt: and they teach that, in a doubt, the union which is made equally principally is to be presumed, and not merely accessarily and subordinately, since such a union is considered odious; and much less a promiscuous union, since this latter is moreover rarer: Garzias, *De Benef.* p. 12, ch. 2, n. 7; Leuren, *Form. Benf.* p. 3, sect. 2, ch. 1, g. 881, and others. To determine, however, whether a union is to be considered as made accessarily or equally principally, it is primarily necessary to examine the tenor of the letters by which the Benefices are united, and the same Authors teach that a church is united accessarily by the words: "We unite, annex, or incorporate this church or Benefice to that Benefice"; whereas, on the contrary, it is united equally principally by the words: "We unite this Benefice with that Benefice." However, it must be noted that, although sometimes the words, as they sound, may seem to indicate a union made accessarily, nevertheless the substance and intent must be considered more than the bare words, so that even the word "incorporate" may sometimes present a difficulty in proving a principal union: Pignatell, vol. 1, *Consult.* 223, n. 13. Having considered these matters, it remains to inquire by what kind of union the parishes of which we are speaking were united. And it is observed that a subjective union seems to have been carried out, since the church of St. Venantius retained its title; it was always called "parish";

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it had a distinct population; and it was treated as a member of the other, which circumstances, and others of a similar nature, would exclude both the second and third species of union. Given such a union, it follows that Mass for the people of St. Venantius should be celebrated: and that custom cannot prevail against the exercise of this pastoral duty, as Benedict XIV decreed in the aforementioned Constitution: "We decree and declare... that although an ancient or even immemorial custom may have prevailed in those parishes, that Mass for the people is not celebrated, nevertheless it must nevertheless be applied by them in the future." But it remains to be inquired to whom such an obligation pertains, whether to the Chaplain-Curate, or rather to the Rector of St. Facundus. And it is observed that it is certain that...

[*Latin ed. p. 148*]

148. MISSES FOR THE PEOPLE: All those who actually exercise pastoral care are to be bound to offer the Mass for the people, whether they are parish priests, vicars, chaplains, or those appointed for a short time, or those who can be removed at will: Benedict XIV, in the aforementioned Constitution, and the Sacred Congregation of the Council, in general; specifically, in Terracina, on March 4, 1799, in response to the question: "Whether chaplains appointed by the Chapter to exercise pastoral care are bound on Sundays and feast days to offer the Mass for the people," the answer was: Affirmative. Therefore, it was concluded that the chaplain of St. Venantius, when actually exercising pastoral care, ought not only to celebrate the Mass for the people, but also to offer it. Nevertheless, certain considerations, not lacking in weight in the present matter, suggest otherwise: considering the origin of the matter, the Rector of St. Facundinus had complete and actual care of the united parishes, when he made use of another priest as a coadjutor or vice-parish priest; and this also appears from the right of choosing, appointing, and removing the chaplain, which he had possessed for centuries; and also from the right of demanding all tithes from the people of St. Venantius, as well as from the obligation of providing candles to be burned on the Feast of the Purification of the Blessed Virgin Mary. Conversely, the revenues established for the chaplain did not seem to include the obligation of offering the Mass for the people of St. Venantius, which, as is said, was not offered before. Considering these and other things, the following question is proposed: "Whether and from whom the Mass for the people is to be offered on Sundays and feast days in this case." RESOLUTION. The Sacred Congregation of the Council, having knowledge of the matter on September 4, 1869, judged it fitting to respond: Affirmative, at the expense of the parish of St. Facundinus, for the Rector of St. Facundinus. FROM WHICH IT IS UNDERSTOOD: I. In each parish, a Mass for the people is to be offered on Sundays and feast

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days.

[*Latin ed. p. 149*]

MASSES FOR THE PEOPLE 149 II. It is not of consequence whether parishes have been united to one another as principal ones: for as long as any parishes remain distinct in reality, that right of the parishioners to have a Mass applied for them, which is inherent to each parish, does not cease. III. Therefore, the Parish Priest who governs several united parishes ought to apply Masses for the people in proportion to the number of united parishes subject to him (1). IV. Only the case is to be excepted, in which the parishes have been united in such a way that, even with the suppression of titles, one parish results entirely from the mixture or absorption of several. V. Nor is it permissible to maintain a contrary custom, even if it be an ancient one. For such a custom would be contrary to the pastoral office, which derives its origin from divine law; although, according to ecclesiastical law, it has been entrusted and determined to the Priests in part (%). VI. The obligation of applying Masses for the people rests upon all those who actually exercise the care of souls, whether they exercise it in their own name or in the name of another. VII. However, those who exercise the care of souls in the name of another ought to receive compensation from the titular Parish Priest, if such an obligation has not been considered in the assigned revenues. VIII. In the present case, the parishes were united in such a way that they remained distinct in title and in reality. IX. The titular Parish Priest, through his vicarious chaplain, was responsible for the parish of St. Venantius, with assigned revenues that did not include the burden of celebrating a Mass for that people. X. Therefore, when the chaplain was urgently needed to apply that Mass, the titular Parish Priest was obligated, by justice, to reimburse the eleemosynary offering of that same Mass. (1) Compare the reason which I have explained in Volume I, page 1, and those things which I have written there on pages 50 and following. Compare also the reason there on page 602. (2) Compare the case concerning the application of a Mass for the people, which is treated in detail in the Sacred Congregation of Propaganda Fide, a summary of which I have presented in Volume I, page 389.

[*Latin ed. p. 150*]

ABSOLUTION AND INDULGENCE. September 4, 1869. Summary of the matter. I presented a certain case in Volume I, page 65, which concerned several customs that had existed in the cathedral chapter of the church of N., namely, the daily distributions, when the canons were absent due to some ecclesiastical duty that prevented them from attending the choral service; such as the duties of the Rector, the duty of teaching in the Seminary, certain offices to be performed in the episcopal curia, etc. Those who wish may recall this case by reading it again. However, since these resolu-

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tions, given for several reasons, were not enforced during the absence of the Archbishop, and since, due to newly arisen circumstances, the Archbishop requested, in addition to the absolution sought by the canons, that those who taught in the Seminary and devoted their services to the curia be permitted to receive the daily distributions during their absence, according to his judgment, since they were lacking income both from the Seminary and from the curia, the Sacred Congregation, after considering the matter on September 4, 1869, responded as follows: "With prior absolution and remission regarding the past, for the sake of the indulgence to be absent from the choir for days and hours, solely for the benefit of the Rector and the Professors of the Seminary; provided that they receive no monetary benefit, but lose the distributions that are customarily distributed among the present members, for a period of three years, upon giving their word to the Holy See."

FROM WHICH WE GATHER:

I. It is permissible for the evident benefit of the church to be considered among the reasons for being absent from the choir and receiving distributions, according to chapter 6 of the regulations concerning non-resident clergy: nevertheless, by "the church," it is understood the church to which choral service is owed.

II. The term "church" can be understood in a broader sense, even as the entire diocese, but in this case, an Apostolic indulgence is necessary for the legitimate reception of distributions during the time of absence.

[*Latin ed. p. 151*]

FROM THE HOLY CONGREGATION FOR RITES, CONCERNING THE BEATIFICATION AND CANONIZATION OF THE VENERABLE SERVANT OF GOD, LOUIS MARY GRIGNON DE MONTFORT, FOUNDER OF THE CONGREGATION OF THE PRIESTS OF THE SOCIETY OF MARY, COMMONLY CALLED SPIRITUS SANCTI, AND OF THE CONGREGATION OF THE DAUGHTERS OF WISDOM, REGARDING A DOUBT: Whether it is established that he possessed the Theological Virtues of Faith, Hope, and Charity, in God and towards his neighbor; and also the Cardinal Virtues of Prudence, Justice, Fortitude, and Temperance, and their corresponding virtues, in a heroic degree, in every circumstance, and to the effect of what is being considered. DECREE. "Among the men whom the illustrious Gallic people has produced and nurtured for the exercise of the Apostolic ministry, the Venerable Louis Grignon will be remembered. He first saw the light of day in the year 1673, in the County of Montfort, in Great Britain, from which he took his surname. He spent his childhood and adolescence most piously in the fear of the Lord, until, having previously completed a course of studies in letters

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and philosophy in Rheims, he was initiated into the priesthood, having been instructed in theological disciplines among the Sulpicians in Paris. He immediately began to impart the rudiments of the faith to the poor gathered in hospitals, and to take care of them. But moved by pity for the infidels sitting in darkness and the shadow of death, he longed to fly to their salvation; he nevertheless wished to visit our Alma Mater, to see the Thresholds of the Apostles, and to present his purpose to the Supreme Pontiff Clement XI. However, he heard from him that he had been chosen by God, rather for the benefit of Gallia than for that of the barbarians, to..."

[*Latin ed. p. 152*]

He zealously combatted the decree against the then-widespread Jansenist heresy. Inflamed by these words, and with the spirit and power of Elijah, he burned with zeal for the House of God, and, having returned to France, he devoted himself entirely to the sacred ministry of the Apostles: with such success that he brought almost countless sinners, even the most lost, to the path of salvation, and led many heretics to the fold of Christ; he changed the morals of towns throughout the land, and drove out the Jansenist error from the clergy. Furthermore, he established two sodalities: one of priests, called the Holy Spirit, who diligently spread the sacred missions throughout various regions of France; and another of pious virgins, whom he named after Divine Wisdom, and he wished that they should provide assistance to the needs of any poor people. Finally, this valiant imitator of Elijah, weakened by the weight of his labors, persecuted, slandered, and reviled, reached the end of his life. Fortified by the sacraments of the Church, and ardently desiring to be dissolved and to be with Christ, he peacefully fell asleep in His embrace on the fourth day before May, in the year 1676. The fame of his sanctity, which flourished even amidst the criticisms of his detractors during his lifetime, spread more and more throughout France after his death. Therefore, with the authority of the Ordinary in the Diocese of Luçon, proceedings were initiated, and after they were proven, the Supreme Pontiff Gregory XVI, may he rest in peace, on the eve of the Nativity of the Virgin Mary, in the year 1838, signed the commission for the introduction of the cause with his own hand. After the necessary letters were dispatched, the Apostolic processes were established in the same Diocese of Luçon. After their validity was confirmed, a doubt arose concerning the virtues of the Venerable Servant of God, Louis, according to the established procedure, and preparatory meetings were held before Cardinal Clement Villecourt, may he rest in peace, on the fifth day before January, in the year 1866. Then, the doubt was again raised in the preparatory meeting held in the Pontifical Vatican buildings on the seventeenth day before August, in the year 1867. When the Postulator insisted that further preparatory meetings were necessary to achieve a safer outcome for the cause, these, with the

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permission obtained from the Most Holy Pope Pius IX, were held on the fourteenth day before March, in this year, 1869. Finally, the virtues of the same Servant of God were discussed in the General Meetings, which were held before the same...

[*Latin ed. p. 153*]

DECREE 153. By His Holiness, these matters were instituted in the same Vatican buildings on the sixth day before the Kalends of August, in the same year, in which the Most Reverend Cardinal Nicholas Clarelli-Paracciani, together with Cardinal Clement Villecourt, who had passed away in life, presented the following question: "Whether it is established that the Theological Virtues, namely Faith, Hope, and Charity, both in God and in neighbor, as well as the Cardinal Virtues, namely Prudence, Justice, Fortitude, and Temperance, and their associated virtues, are heroic in degree, in this case, and to the effect of what is being considered?" And the Most Reverend Cardinals and Consultor Fathers, in order, presented their opinions. However, the Most Holy Lord, except for the votes, encouraged the electors to, in the meantime, offer prayers, so that Divine Wisdom might grant light and counsel, by which such a most serious matter might be resolved.

"Finally, on this day, before the unconquered Prince of the heavenly host, Saint Michael the Archangel, the Most Holy Lord, after having celebrated the Sacred Mysteries in the private chapel of the Vatican Palace, ascended the throne in the nobler hall of the same Palace, and summoned to him the Most Reverend Cardinal Constantine Patrizi, Bishop of Porto and Santa Rufina, Prefect of the Congregation of Sacred Rites, together with the Most Reverend Cardinal Nicholas Clarelli-Paracciani, Bishop of Tusculum, and the Relator of the Cause, together with the Reverend Father Peter Minetti, Promoter of the Holy Faith, and myself, the undersigned Secretary, and, in their presence, declared: 'It is established that the Theological Virtues, namely Faith, Hope, and Charity, in God and in neighbor, and the Cardinal Virtues, namely Prudence, Justice, Fortitude, and Temperance, and their associated virtues, are heroic in degree, in this case, and to the effect of what is being considered, so that the discussion of the four miracles may proceed.' A decree of this nature was ordered to be published publicly and recorded in the Acts of the Congregation of Sacred Rites on the third day before the Kalends of October, in the year 1869."

C. Bishop of Porto and Santa Rufina.

CARD. PATRIZI, Prefect of the Sacred Rites.

(Signature)

Dominicus Bartolini, Secretary of the Sacred Congregation.

[*Latin ed. p. 154*]

APPENDIX IV. CONCERNING A LETTER FROM THE MOST HOLY

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FATHER TO THE ARCHBISHOP OF WESTMINSTER, DATED 4 SEPTEMBER 1869; AND REGARDING THE RESPONSES OF CERTAIN PROTESTANTS. On the occasion of the Letter of the Most Holy Father to the Archbishop of Westminster, which I cited in the preceding volume, page 112, I took care to read the articles published in the public English newspapers concerning that letter. From these, I discovered that there had previously existed a certain disagreement among some Protestants in England regarding the meaning of those letters which the Most Holy Father had written to all Protestants and non-Catholics on 13 September 1868, which I cited in Volume IV, page 131. For some believed that, through those Apostolic letters, an invitation had been made to Protestants to participate in the ecumenical council that was to be held; while others, reading those letters more carefully, denied this. Doctor Cumming, who belongs to the Presbyterian sect, inquired of the Archbishop of Westminster about this matter, and after exchanging letters with him, and finally, considering that he might be able to speak out in the ecumenical council, that doctor wrote a letter to the Most Holy Father, which he sent to His Eminence Cardinal Patrizi, and which was subsequently published in the newspapers, with these words: "Most Holy Father, it has pleased you to invite Protestants and others separated from and estranged from the Church of Rome to the ecumenical council. We offer you our heartfelt thanks, and with all our hearts we desire to be present at the council which you have called. In order to be more certain of the freedom and extent that will be granted to us, I have sent letters to the Reverend Doctor Manning on several occasions this year. That Reverend and most learned man replied to me in these words: "I cannot give you an answer regarding the manner of proceeding. Only the supreme authority can provide this. Therefore, I earnestly and humbly implore you, Most Holy Father, that if it pleases you, you may inform us whether we will be granted the freedom to speak in the council and to give reasons, by which Protestants have been separated from and divided from the Church of Rome. I profess myself your servant, John Cumming, D.D., of the Presbyterian Church of Scotland."

[*Latin ed. p. 155*]

APPENDIX IV. Having permitted this letter, and the other writings attached to this letter, to be published, the Most Holy Father deigned to send a letter to the Archbishop of Westminster, concerning the letter in question; which, likewise, was published in the newspapers, and in which the aforementioned Doctor Cumming, and several newspaper writers, expressed their opinions. For it was the intention of these men that they might have the opportunity to debate matters already defined in the Council; and for this reason, without understanding, they seek to turn back the course of things, not realizing that the deposit of revealed truths, which the Catholic Church immaculately safeguards and is bound to define, can in no way be

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altered, so that the faithful are not led into the errors which are increasing day by day. If you inquire in those same newspapers why these men seek to turn back the course of things, you will find several reasons given, often mixed with sarcastic and bitter remarks, which are almost entirely nothing more than the broken javelins of children hurled against the rock of the Catholic Church and the Apostolic See. And among the most important things that I should mention, which seem worthy of consideration, is this principle upon which the thoughts of the writers are based: "It must not be considered true, unless that which each one's own conscience reveals to him." 155 This position, they argue, contradicts the praised letter of the Roman Pontiff, as if it indicated an absolute separation that can never be reconciled between Protestants and Catholics; for in that letter, a principle is stated that must be firmly held as true and infallible, namely, that which the Roman Pontiff or the Catholic Church defines. Among the javelins that they hurl against the rock of the Roman See, the most significant is the judgment rendered concerning Galileo and his doctrine. Finally, they slander and reproach the Roman See, as if it were diligently seeking to draw Protestants into its supposed poisonous atmosphere. It is important to note what the author of an article in the English and most widely circulated newspaper, *The Mail* (or *The Times*), number 15, 505, dated September 21, 1869, wrote, in which the state of the question seems to be particularly explained. His words, translated into Latin, are as follows: "The question concerns the rights of conscience and of national, social, and individual liberty. When Luther said that he could not do otherwise than act according to his own conscience, even if the Pope condemned him, he enunciated an essential principle of opposition between..."

[*Latin ed. p. 156*]

156 APPENDIX IV "Regarding the Papacy and other bodies of Christendom." Modern society "might respond to the authority asserted in this epistle (of the Roman Pontiff) in precisely the same manner: we cannot do anything other than what we are doing." The Pope says, "it cannot be denied or called into doubt that the Founder of the Church entrusted absolute authority to Peter." We reply, not only that this can be called into doubt, but that, in fact, it is both doubted and denied. There is nothing so certain that it cannot be called into doubt; from this, however, it does not follow that truth is unattainable, but that men ought to act according to their own conscience, and that free and continuous discussion should be held. This is the very air which we breathe, and which can never be abandoned because of the widespread acceptance of the pernicious atmosphere of Papal or ecclesiastical infallibility. If this letter is any indication of an attempt by the Council to incite, and if the outcome of this great endeavor of the Roman Church is the proclamation of eternal separation from any idea that is not *catholica*, then the Pope has certainly fulfilled an invaluable office for the

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world, although the opposite of what he promises himself. He has caused men to be persuaded once and for all that there should be no agreement or association with his Church, and that the freedom of thought and feeling of Protestants (whatever may be considered of it in the abstract, whether it is desirable or not) is the only possible condition for lasting peace." (1)

Doctor Cumming, who, as he himself says, intended to descend into the arena before the Catholic Church, assembled by prelates in council, inserted a list of propositions or demands in the *Times* newspaper, which contain nothing but examples of follies that are presented to three...

[*Latin ed. p. 157*]

APPENDIX IV. For centuries, Protestants have objected to the Catholic Church, and these objections are usually found refuted in any work of Catholic theology written for beginners. However, what is unique here is this list of propositions or demands, which are presented as if they were new, as if Catholic doctors had never written about them, and as if they were entirely unknown: therefore, Doctor Cumming demands that the Council provide an explanation and clarification. I will indicate some of the things contained in this list. The first proposition concerns the famous testimony by which Christ the Lord rewarded the excellent confession of Peter with the words: "And I say to thee: That thou art Peter; and upon this rock I will build my church, and the gates of hell shall not prevail against it." The aforementioned doctor argues that, by the term "rock," Christ the Lord indicated Himself, and not that He made Peter the rock. This is the first lament. Next follows the first demand, in which he asks: "Can the Council explain why Peter had a wife, and conversely, why the Roman Pontiffs, and other bishops and priests, dare not marry?" The second demand: "Can the Council explain why Peter, the Vicar of Jesus Christ, did not excommunicate Paul, who rebuked him, but instead corrected his own behavior?" These and other similar demands are made. But, my dear doctor, any Catholic parish priest who teaches you will provide you with abundant light, which the Council may perhaps not be willing or able to give you. Nevertheless, it is worthwhile to briefly explain some things indicated by the author of the article in the newspaper *The Times*, which I quoted.

ON THE FREEDOM OF CONSCIENCE. You therefore assert that you cannot act against your conscience, as Luther said, whom you invoke as your master in this matter. But here one might ask, what is meant by the term "conscience"? And that discussion must be free and continuous. This is the very air we breathe, and it will never be exchanged for the poisoned atmosphere of Papal or ecclesiastical infallibility. If this letter is an indication of the tendency of the Council, and if the result of this great effort of the Roman Church is to proclaim an eternal separation from all "non-Catholic" thought, then the Pope will have conferred on the world an ines-

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timable service, though in a way contrary to that which he expects. He will have convinced men, once and for all, that compromise or alliance with his Church is hopeless, and that the free thought of Protestants, whether abstractly desirable or not, is the only condition any longer possible.

[*Latin ed. p. 158*]

158 APPENDIX XV, understand; for it is also a solemn principle among Catholics that one must not, nor ought one, to act against one's conscience. Indeed, it can happen in matters of respect that one is compelled to act against even a broad judgment of ecclesiastical authority; since, as we often say, the external forum does not always coincide with the internal forum: and whenever the internal forum is in opposition to the external forum, we are bound to follow the former. On this matter, our Catholic authors who deal with moral theology should be consulted. However, if by the term "conscience" you understand the judgment of reason of each individual, which is to be held as the supreme and independent norm of action, then your assertion not only lacks any reasonable foundation, and can easily be shown to be erroneous; but even if, for the sake of argument, we admit it to be true, it would completely undermine the entire edifice of our Lord Christ, so that the Christian name would be banished from the earth, and not only the deposit of faith would be destroyed, but the very natural order itself would collapse; for even in the natural order, there exists a certain objective and immutable norm that in no way depends on the opinions of men. In order that what I have asserted may not seem to be left entirely unproven, assuming your principle as a hypothesis, we would have to admit that the deposit of revealed truths, which includes all that a man must believe and do to attain eternal salvation, was not given to men as a binding norm of believing and acting, but rather as a certain theory, to which men are invited to consider, so that, from it, each one might freely determine what he believes is best. From this would follow that our Lord Christ did not establish the Church, that is, that wonderful society composed of human and divine elements, foretold and illustrated by so many glorious parables, which constitutes one ordered and unified body; but rather, in fact, he established and renewed the Tower of Babel, to which he gave the name of Church. He would have established a magistracy in vain, which vigilantly guards the deposit of revealed truths, promising his assistance to those who teach, until the consummation of the ages. He would have falsely said: "He that believeth and is baptized shall be saved." The Apostles would have vainly exerted so much labor, diligence, and constancy in spreading the doctrine of Christ, and indeed would have confirmed it with their own blood, as Paul wrote to the Galatians.

[*Latin ed. p. 159*]

APPENDIX IV. I am astonished that you should so quickly be turned

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away from him who called you into the grace of Christ, to a different Gospel. For there are some who trouble you and wish to pervert the Gospel of Christ. But even if we, or an angel from heaven, should preach to you a gospel different from that which we preached to you, let him be anathema. As we have said before, so now I say again: if anyone preaches to you a gospel different from that which you received, let him be anathema. For what reason do I appeal to men, or do I seek to please men? For if I were still pleasing men, I would not be a servant of Christ. In vain would heresies have been condemned, since heretics, according to Luther's own principle, could not have arisen. In vain would the Apostles have ordained bishops, and entrusted them with the churches, that they might diligently guard the deposit of faith, and impart it zealously to others. Moreover, it would follow that those most learned men, endowed with outstanding intellect and virtue, who have shone forth like stars throughout the ages, have been deceived; men who have devoted all their energies to preserving the sacred deposit immaculately, to explaining the culture of all sciences to the faithful, and to vigorously defending against ever-increasing heresies, and who have conformed their lives according to the laws of the Gospel, so that they might become perfect men of God: it would follow that these countless men are to be considered fools. It would follow that those men, who, having endured such exquisite torments, preferred to suffer death rather than to deny the truths revealed by the Church, lest they lose eternal life, are mistaken. These and other consequences would follow, which it is unnecessary to point out to learned men. Therefore, if the Protestants were not vainly boasting of the Christian name, and were sincerely seeking the way that the Lord Christ taught to be followed for the salvation of the human race, they could not fail to see that the path they have followed and are following is false; and, enlightened by this first light, and aided by divine grace, they would easily see that there is no other Church of our Lord Christ in the human race, nor can there be, other than that from whose bosom the wicked heresy tore them away, and that there can be no other deposit of revealed truths given, other than that which is possessed and guarded by the Catholic Church. Therefore, when you say that you cannot act otherwise than according to your own conscience as an independent norm, you enunciate a principle that subverts the entire revelation, so that you usurp the name of Christians only in a deceptive way. On the contrary, the Roman Pontiff...

[*Latin ed. p. 160*]

160 APPENDIX IV, through the esteemed letter, signifying the immutability of the Catholic doctrine, defined, he has not said anything new, but has frankly repeated what the Church received from the Apostles through continuous tradition. From this, you ought to understand that the Pope addressing you does not wish to extend his authority and power,

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as you boast, but is concerned about the salvation of the human race, inviting you to care for your return to the bosom of the Catholic Church, from which you have been torn away, so that you may return to the ark of salvation. You see, therefore, how much difference there is between that which you pronounce, "we cannot," and that which the Roman Pontifex has signified to you; for the former, which is a human invention of Luther's, absolutely depends on your will; the latter, which is the command of our Lord Christ, does not depend on the will of the Catholic Church or the Roman Pontifex. Indeed, Paul himself wrote to the Ephesians, chapter 4: "He gave some as apostles, and some as prophets, and some as evangelists, and some as pastors and teachers, for the perfection of the saints, for the work of the ministry, unto the building up of the body of Christ, until we all come into the unity of the faith, and into the knowledge of the Son of God, into a perfect man, unto the measure of the stature of the fullness of Christ, that we may no longer be children, tossed to and fro, and carried about with every wind of doctrine, by the trickery of men, according to the cunning of error. But speaking the truth in love, we shall grow up into him in all things who is the head, even Christ; from whom the whole body, being fitted and joined together by all the joints that supply, according to the working in the measure of each part, maketh the growth of the body unto the building up of itself in love." Therefore, I say and testify in the Lord, that you no longer walk as the Gentiles walk, in the vanity of their mind, having their understanding darkened, being alienated from the life of God, because of the ignorance that is in them, because of the hardness of their heart; who, having given themselves over to licentiousness, have been made without understanding, and are walking in the lusts of their flesh, in uncleanness and excess of fornication, and in wickedness, and in avarice, and in covetousness, and in an evil will, and in malice, and in envy, and in indignation, and in contention, and in backbiting, and in a perverse and cunning tongue, and in a mouth that speaketh lies and flatteries. CONCERNING THE PRIMACY OF HONOR AND JURISDICTION GIVEN TO PETER, UPON WHICH THE CHURCH STANDS, AND COLLATED IN CHRIST THE LORD. The Roman Pontifex wrote that the primacy, not only of honor, but also of jurisdiction, was established by the Founder of the Church, to Peter and his successors; but you, in response, not only say that you cannot doubt, but actually doubt, and indeed deny, that which has been done.

[*Latin ed. p. 161*]

161 APPENDIX IV Attendite, obsecro, hic non quaeritur, utrum in hoc casu dubitatum aut negatum sit, sed quaeritur utrum iure dubitari aut negari possit. Nam inter omnes veritates revelatas, quas fortasse modo vos tenetis, nullam reperietis, quam haeretici aliquando non fuerint negati, aut saltem in dubium redacti. Immo, nonne etiam quaedam veritates habentur,

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de quibus disputatio fuit inter ipsos catholicos, priusquam Magisterium Ecclesiae aut explicite definiverit, aut saltem, cum doctrina communissima invalescit, opiniones audaces non oppresserit? Num ideo dicendum erit, eiusmodi veritates extra dubitationis aleam non esse positae? Quaere, itaque, utrum iure denegari possit aut dubitari, utrum Fundator Ecclesiae primatum, tum honoris, tum iurisdictionis, commisisse sit Petro. Nam qui hoc neget aut dubitet, illi resistentur ab illustribus testimoniis Scripturae, ab actis multis in Scripturis narratis, ab historiis plurimis et solemnissimis, quae explicari et intelligi nullimode possunt, nisi supponamus Petrum fuisse auctum dicto primatu inter ipsos Apostolos. In comperto namque est, dubia demonstrari posse duplici modo: aut per aperta testimonia, aut per alia acta, quae explicari et intelligi non possunt, nisi verum supponamus factum illud, de quo quaeritur. Hic locus non est tractatum 'biologicum dandi, neque id facere opus est, quippe cum doctissimi viri id iam praestiterint, et omnes cavillationes Protestantium adversus primatum Petri ianu penitus disiecerint. Placet tamen aliquid vestigium de Petri primatu inter Apostolos, et proinde in universam Ecclesiam, ex Scripturis recolere, omissis classicis testimoniis. Si Petrus inter Apostolos non obtinuisset primatum, tum honoris, tum iurisdictionis, puto id melius nos cognoscere non posse, quam ex Apostolo Paulo, praesertim in epistola ad Galatas. In ea namque epistola totus erat Paulus, ut sibi auctoritatem conciliaret, quoad posset maximam, adversus fideles Iudaizantes, qui contra ipsum Paulum invocabant auctoritatem Petri ceterorumque Apostolorum. Paulus enim ingenio fervidissimus in ea epistola tradit totam sui Apostolatus gestionem, in eo maxime intentus, ut ostenderet, evangelium, quod praedicaret, se non accepisse ab homine, sed per revelationem Iesu Christi; ideoque mereri se maximam fidem. Poterat ne occasio opportunior dari fervidissimo Pauli ingenio, ut suam vindicaret independentem auctoritatem, atque...

[*Latin ed. p. 162*]

162 APPENDIX IV, he refuted the opinion which had prevailed concerning Peter's supreme authority in the universal Church, saying, "It is in vain that they invoke the authority of Peter, when to him the greatest authority of all was granted by the Lord Christ?" But Paul not only did not say this; rather, he expressed such things as to demonstrate that the true opinion of the nascent Catholic Church concerning Peter's authority existed, and that he acknowledged his necessary dependence upon him in doctrine and communion. In this letter of Paul (from which some Protestants, among whom is Doctor Cumming, wrongly believe arguments against Peter's primacy can be derived), two phrases are contained, mutually connected, one of which is found in the writings of Saint Ignatius the Martyr (Epistle to Smyrna, n. 8): "Where there is Christ Jesus, there is the Catholic Church," and the other in the writings of Saint Ambrose (In Psalm 50, n. 30): "He is Peter, to whom Christ said: 'You are Peter, and upon this rock I will build

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My Church.' Therefore, where Peter is, there is the Church." And indeed, in the entire context of the first and second chapters of the same letter, he is compelled to acknowledge his dependence upon Peter in the office of the Apostleship, and at the same time, from the very manner of his speaking, it becomes clear that in the nascent Catholic Church, whether among the circumcised or among the Gentiles, Peter was a man of great renown, and that his authority was to be a standard for all in matters of belief. Thus, Paul says in chapter 1, verse 15: "But when it pleased Him, who separated me from the womb before I was born, and called me through His grace, to reveal His Son in me, that I might preach Him among the Gentiles; I did not immediately confer with flesh and blood, nor did I go to Jerusalem to see those who were Apostles before me. But I went away into Arabia, and returned to Damascus. After three years I went to Jerusalem to see Peter." Therefore, were you seeking to go to Jerusalem to see your predecessors, the Apostles, and were you seeking to see them in order that you might see Peter? For this reason, having undertaken a journey from Damascus, you paused for a time from your apostleship, although you did not cease to strive against flesh and blood. I do not now ask you, Paul, why you call him Peter, when previously he was called Simon, but rather, why was it sufficient for you to see Peter, and why did you not seek out the other Apostles?

[*Latin ed. p. 163*]

APPENDIX IV 163 Do you seem to neglect your own? For you say that the Lord is with you, as you affirmed before: you say, "And I remained with him for fifteen days," but who would dare to contradict such a doctrine of such authority? I have seen no one, except James, the brother of the Lord, who has disputed your words. For wherever Christ is, there is the Church. And your predecessors, whom you sought, I do not see the reason why you wished to see them, so that you might be compelled to visit Jerusalem and see your predecessors for fifteen days; you saw Peter, your Apostles, as you say, although you scarcely mention James, although you call him the brother of the Lord. And what I write to you, behold, before God, is not to diminish you, for I know that you are a Roman citizen, and skilled in the Law, and I know what manner of man he was: but reveal to me, with your divine and most excellent teachings, why you sought to see Peter? I see that it was sufficient for you to see Peter, and not to visit others; indeed, you were much greater, and you did not neglect your labors in parts of Syria and Cilicia. "I have labored more abundantly than all of them," as you say in 1 Corinthians 15:10. "But I do not boast, but I glory in the Gospel of Christ." For a great harvest was appointed to you, consisting of the nations that filled the world. Having seen these things, Peter rather ought to have come to you, to congratulate you, following your example. I said following your example, for you did not conceal the Son of God in

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yourself. But, if I understand correctly, you sought after Peter, whom you saw only after three years from the beginning of your apostleship, after your predecessors had visited him, so that you might see Peter; for just as false brethren in Galatia resisted your doctrine, and you did not consider them to be anything, but called upon Peter as the supreme master of faith (I do not know with what intention they did this); so too you...

[*Latin ed. p. 164*]

164 APPENDIX IV. Without any doubt, from the very beginning of your apostolate, you knew that Peter was the head of the Apostles, and therefore the head of the Church, with whom it was necessary for you to confer. I rejoice, Paul, that you yourself acknowledge this, when you candidly add: "Then, after fourteen years, I went up again to Jerusalem with Barnabas, taking Titus also with me." I went up, indeed, according to a revelation, and conferred with them about the Gospel which I preach among the Gentiles; but separately with those who seemed to be of note, lest by any means I might run or have run in vain. Therefore, the Apostles who were in Jerusalem possessed such authority throughout the entire Church, both among the Hebrews and among the Gentiles, that you yourself, Paul, even with a revelation, were compelled after fourteen years of your apostolate, from the first time you saw Peter, to go up to Jerusalem, for so grave a reason as to confer with them, lest you might run or have run in vain. Therefore, at that time, there was such a teaching authority present in Jerusalem, with which even those who had received it through revelation were compelled to confer. But if someone were to object, saying that this concerns only Peter, and not the College of Apostles. But besides the fact that this response in no way helps the cause of the Protestants, since they might find some shadowy refuge in the Book of Galatians; I see that there was not the College of Apostles present in Jerusalem, but only three: Peter, James, and John, which is, indeed, only one-fourth of the Apostles, and this portion is either not sufficient to be said to authentically confirm Paul's doctrine, or, if it is sufficient, it is so because Peter was present. Therefore, it was Peter whom Paul repeatedly sought, lest he might, perhaps, run in vain; and therefore, he did not seek another region to find other Apostles, but only Jerusalem. And already from the very beginnings of the Church, this very fact has been, as it were, tangibly expressed in the universally accepted saying in the Catholic Church: "Where Peter is, there is the Church." These are indeed fully confirmed by what follows: it is confirmed that the Apostles who were in Jerusalem possessed the supreme authority, and the supreme teaching authority; and this was the case not for any other reason than because Peter was among them. And indeed, Paul continues: "But neither Titus, who was with me, being a Gentile, was compelled to be circumcised." See the action of supreme authority: it concerned Titus, a disciple of Paul who was exceedingly dear to him, whom he had nurtured in the faith and

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had associated with him in the ministry of the apostolate.

[*Latin ed. p. 165*]

APPENDIX IV. But Paul himself confesses that, when he was still a Gentile, he was not compelled to be circumcised; therefore, he could have been compelled against the very preaching of Paul, if those who seemed to be something had judged so. See the supreme teaching authority, which was present among them, Peter, from all that follows. But those who seemed to be something (what they were once, it is of no concern to me; for God does not regard the outward appearance of a man); to me, those who seemed to be something, contributed nothing. And if he were to say: "You, Galatians, who dare to turn the Gospel I preach into something else, proclaiming the necessity of the Jewish law, and rejecting my authority, know that I have set forth the Gospel and the doctrine which I have preached for so many years among the Gentiles, with those who seemed to be something in the entire Church; and although I myself did not seem to be anything, they nevertheless contributed something to me." What, then, are you striving to undermine my authority and pervert my doctrine? But I ask you, Paul: did they truly contribute nothing to you? For I see that they contributed nothing to you, so that perhaps false brothers might turn you away against you; yet they contributed something: for, having learned more fully about the doctrine through this exchange, you were able to preach the doctrine you proclaimed with much greater confidence throughout the churches: "For if we, or an angel from heaven, should preach to you a gospel other than that which we preached to you, let him be anathema." For you knew that you were not running or rushing in vain. But furthermore, they contributed something else to you, which you yourself confess, saying: "But on the contrary, when they had heard that the Gospel of the uncircumcision had been given to me, as also to Peter the Gospel of the circumcision (for He who worked through Peter for the apostleship of the circumcision, also worked through me among the Gentiles), and when James, Cephas, and John, who seemed to be pillars, received the grace given to me and Barnabas, they wrote to Jerusalem for us to go with them, that we might go up to them, and discuss this matter; and they were received." They gave their right hands to me and Barnabas, that we should go with them to the Gentiles; but they desired that we should only remember the poor, which I also was eager to do. Therefore, they contributed to you extraordinary privileges of honor: for they took you into their fellowship, giving you and your companion Barnabas their right hands; and thus you and your companion Barnabas were numbered among the pillars of the Church. And if they gave you this very slight admonition, to remember the poor; certainly the false brothers could not despise your teaching among the Galatians; rather, all the more

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so, since you, Paul, say that you are concerned about this very thing.

[*Latin ed. p. 166*]

166 APPENDIX IV you also acted in this very way. Furthermore, I see that you were presented with something else: for when you were certain, through divine revelations, that He who had worked through Peter in the apostolate of the circumcised, had also worked through you among the Gentiles, you saw this certainty of yours confirmed by their testimony. For, after comparing your doctrine and your mission with the doctrine and mission of Peter, they ought to have recognized that you had received the Gospel for the uncircumcised, just as Peter had received it for the circumcised. Therefore, Peter was that one, with whom, if you had not agreed, your apostolate, otherwise so extensive, would have been in vain. And I also see more clearly that, from the beginning of your apostolate, you sought out your predecessors, the Apostles, in order to see Peter; and I see the clear reason why it was sufficient for you, after three years, to see Peter, with whom you remained for fifteen days: for Peter was that one, from whom your mission and your revelations were to be recognized; not, however, from the others, whether James or John, except insofar as they themselves adhered to Peter; and those who observed this with you, because of the great multitude entrusted to you, seemed to them to be another Peter. What, then, would have been the point of seeking out others from the beginning, when they were either inferior or, at most, equal to you, and who were doing and teaching nothing different from what Peter was doing and teaching? Indeed, from the account of what happened that you add, you show again what I have already explained: and that event is turned against the supreme authority of Peter only by heretics, acting foolishly. For, just as you showed to the Galatians, with a new example, that your doctrine differed in no way from the doctrine of Peter, and that you were his co-apostle in a singular way; so you made it clear to us that nothing was more common throughout the entire Church of nas than that the supreme office of teaching held the supreme authority in Peter. I say, you showed to the Galatians that you were his co-apostle above all others, whose authority the Galatians, Judaizing, were opposing against you. For who could have resisted Peter when he came to Antioch (according to the understanding that the Galatians had of his authority!) except he who could be equally compared with Peter in the office of the apostolate? And this is what the Catholic Church still proclaims about you, Paul, when it greets you as his co-apostle above all others! You showed again to the Galatians that your doctrine was the same as Peter's doctrine: from that very fact they should have understood that...

[*Latin ed. p. 167*]

APPENDIX IV. One must live according to the Jewish manner, since

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Peter himself also lived in a Gentile manner. You have also indicated to us that the supreme authority of faith resides in him, inasmuch as you assert that his example compelled the Gentiles: for you do not speak of his doctrine, nor of his

preaching, but of a simple manner of acting; and you reprehended him not because he compelled, but because he compelled, and you considered him worthy of reproach for this, which he ought to have considered, lest he do anything that might seem not to be in conformity with the law of the Gospel; otherwise, your own preaching would have been rendered fruitless: in short, the simple example of Peter, in a certain way, compelled, while your own example, with which you strove to live among the Gentiles with a secure mind, did not compel. You say: "But when Cephas was come to Antioch, I withstood him to the face, because he was to be blamed." For before certain men came from James with the Gentiles, he was eating with them; but when they came, he withdrew himself and separated himself from the Gentiles, fearing those who were of the circumcision. And the rest of the Jews also consented to his dissimulation, so that even Barnabas was led away by them into that dissimulation. But when I saw that they did not walk straightly according to the truth of the Gospel, I said to Cephas before them all: "If you, being a Jew, live like a Gentile and not like a Jew, how can you compel the Gentiles to Judaize?" Therefore, such was the authority of Peter, that his actions, which in others would scarcely have been considered, or perhaps not at all, were held in the place of the law; so that even Barnabas, his companion, was led into that dissimulation; the manner of acting of Peter, by which, out of some fear, he separated himself from the Gentiles, compelled not only the Jews, which would have been easier, but the Gentiles themselves to Judaize. What then was Peter in the Catholic Church? He was the firm foundation of the whole Church; he was the center, with whom all, both Apostles and Churches, ought to agree in the unity of faith and communion; he was the supreme teacher, with whom those who would not run into error ought to agree; he was the one whose authority false brothers secretly invoked, in order to spread errors more powerfully, and whose authority, if they could obtain it, they thought they would conquer even Paul himself. These things, as I have indicated from the beginning, are nothing other than certain vestiges of the supreme authority conferred upon Peter, which are derived from the sacred Scriptures, omitting those classical testimonies in which it is expressly read that the Founder of the Church established Peter as the rock and foundation of the Church, upon which it should lean and rest; and the same Founder bestowed upon Peter the office of confirming the brethren, and for this reason, his faith was made unfailing.

[*Latin ed. p. 168*]

168 APPENDIX IV having promised: and having committed to him the

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office of feeding, not indeed one flock apart from another, but all the sheep of the same Founder: "My sheep." Therefore, you, who rightly condemn, seize upon the letter of the Roman Pontiff, of which we are speaking, saying: "Has the primacy been established outside of discussion, not merely of honor, but also of jurisdiction, conferred upon Peter and his successors by the Founder of the Church?" And you affirm, with what right, that this primacy, established by fact, has been called into doubt, nay, even denied? Although you may deny the light of the sun, it will not cease to shine because of your denial. The true Church of Christ possesses that primacy which Christ the Lord conferred upon Peter. If you ask where Peter is now; seek where those are who, throughout the world, appear to be pillars in the cause of Christ the Lord, and you will find him: for from the rising of the sun to the setting, you will hear the voice of Peter as Bishop of Rome; thus our ancestors have handed down for twenty-eight centuries: and you will be able to see him in Rome, surrounded by the crown of all the prelates, and to hear his voice in almost the same way as in Jerusalem, when "a great contention arose, Peter stood up and said... and all the multitude was silent." Acts 15. Furthermore, those things which pertain to the constitution and structure of the Church will remain as long as the Church endures: for the institution of the Church is not a human work, but the divine Architect Himself outlined and established it, and He promised that it would remain until the consummation of the ages: and concerning the perpetuity of that which pertains to the primacy, let me use the words of St. Leo the Great: "The solidity of that faith which is praised in the Prince of the Apostles is perpetual; as He remained in Christ whom Peter believed, so remains in Peter what Christ instituted." (Serm. 3, al. 2, c. 2). Therefore, those who, with the passage of time, hurl darts which are aimed at the Apostolic See.

The Protestants, as we have said, hurl darts and arrows against the Apostolic See: but these are of such a kind that they do not hit. Among these, the one most frequently launched is that which consists of the condemnation of "Galileo." But, my dearest friends, if you can, present the act of the Roman Pontiff teaching from the chair as the divinely constituted master of the Church; and then, with greater hope, the dart which you hurl may perhaps hit: for as long as you do not show the act of the Roman Pontiff teaching in this way (nor will you be able to show it),

[*Latin ed. p. 169*]

APPENDIX IV. Indeed, since it has never happened (that Galileo was condemned), it is futile to condemn Galilee. I have said perhaps it will strike; and to be generous with you: for, as learned men teach and demonstrate, Galileo was forbidden by the Holy Congregation of the Inquisition to teach about the motion of the earth, due to his rash boasting against the Holy Scriptures. Furthermore, it is childish to object to certain particular actions, which seem to you Protestants not to be consistent with the

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same constant order of doctrine, against the constant order of ecclesiastical doctrine, which has been transmitted for nearly two thousand years. For you ought to know that in every order, certain things are always given, which are single phenomena, which do not seem to be able to be reconciled, especially by the unlearned, with the constant laws of the order to which they belong. How many phenomena are observed in the animal, vegetable, or mineral kingdom, which do not seem to be consistent with the constant laws of the same order? And yet, would he be considered foolish who, because of such phenomena, would deny the very laws themselves?

ON THE VENOMOUS ATMOSPHERE OF THE ROMAN SEE. Protestants judge the atmosphere of the Roman See and the Cattolica Church to be poisonous, because within that atmosphere the immutability of doctrine and the infallible teaching authority are said to exist. It must be admitted that such boasting is very consistent with their principle of freedom of thought and feeling. For if this principle were true, I would also add something: I would say that the Roman See and the Cattolica Church, which are founded upon that See, are not only poisonous, but barbarous and inhumane; since by their moral authority they impose a yoke upon the will of men, and by their own judgment they force men to follow only one path, for the sake of obtaining salvation, contrary to the unlimited freedom of thought and feeling of men. But the question, if it can be called a question, lies in whether freedom of thought, feeling, and doing whatever pleases each individual is according to natural law and divine revelation: if it is not so, what remains but to proclaim that that wonderful society, which had as its founder the very Son of God, who, taking the form of a servant, was as a spotless lamb, obedient even unto death, in order to join that society to Himself as a bride, is the only way to salvation, and that He sealed it with His blood, and that He will not abandon it.

[*Latin ed. p. 170*]

170 APPENDIX IV, whether He might wash them, that they might be clean, both in themselves and in their hearts, now and for the ages to come, and that He might reign over them eternally? And who has imposed any other yoke upon the minds of men than the yoke of truth, which is the sweetest thing to the intellect? And who has imposed any other burden upon the will than the burden of the most wise law, which is light? Who foresaw, lest the deposit of truth and law which He entrusted to His Church might, through His assistance, never be perverted by a lasting and corrupting doctrine? Furthermore, you, Protestants, cannot judge whether the air we breathe is poisonous, an air which you have never breathed. Rather, inquire of those among you who once lived among us, and who, having been transferred from your desert to the flourishing garden of the Catholic Church, now breathe the same air as we do. Ask them, which air is poisonous, yours or ours? And you will hear them say: "We have been trans-

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ferred from death to life; for we were alienated from the life of God, and were tossed about as ships without a rudder, driven by every wind of doctrine under the heaven, in wickedness and in the deceit of others, walking in the vanity of our own minds." And you will hear such things, and many others like them. Therefore, there was no reason to invite you to the Ecumenical Council; nor could you have come there with a secure heart, for that most august assembly of the bishops of the Catholic Church is not a place for hurling broken spears, which would neither hit their mark nor make you better. Nor could there be any discussion of your principle of liberty, since that discussion would be reduced to this question: "Whether the Church of Christ the Lord exists, or rather, whether it ought to be destroyed from its foundations." Nevertheless, on the occasion of the Ecumenical Council, which is a most vital act of the Catholic Church, it seemed most fitting for the charity of the Most Holy Father to turn a word also towards you, whom a raging heresy has snatched away from the bosom of the Catholic Church, that you might seriously consider whether you are following the path prescribed by Christ the Lord, which leads to eternal salvation; and, responding to the needs of your hearts, to strive to deliver you from that state in which you cannot be secure concerning your salvation. "Come, brothers," (Augustine said to the Donatists, Psalm 67), "if you wish to be inserted into the vine." It is a sorrow when we see you so stubbornly clinging to error. Examine the priests, or rather, those in the order of the Fathers, from the very See of Peter: see who succeeded whom. It is the rock upon which the gates of hell shall not prevail. And this is not entirely alien to the desire expressed by some members of the Anglican clergy some years ago.

[*Latin ed. p. 171*]

171 APPENDIX IV, let it be given; as it is read in letters sent by that Clergy to His Eminence, Cardinal Patrizi (1), in which that Clergy, desiring a certain reunion, made its purpose clear in this way: "What We, 'O.M.', earnestly beg of God, what We desire with all our hearts, is nothing other than that former communion, which existed before the division between East and West, established and maintained by the profession of the one and same Catholic faith. Indeed, that society, or rather, that aforementioned group, ought to cause less offense among you, provided that, by abstaining from action, it solely takes care to act according to the words of Our Lord Jesus Christ: 'One shepherd and one flock.' This alone is placed in our hopes, and this sentiment and desire We sincerely profess with our heart and with a voice that is not feigned, in a manly manner." If, therefore, the Anglican Clergy sincerely seeks communion, so that one shepherd and one flock may exist, according to the doctrine of Our Lord Jesus Christ; if the Roman Pontiff also, together with the Catholic Church, always holds in his hopes, and earnestly implores God, that those who are separated from the

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true Catholic Church and the Church of Our Lord Jesus Christ may return to His fold, can a more opportune occasion be given than an ecumenical Council of the Catholic Church, so that both those abandoned by the Father and those abandoning their children may perfectly fulfill their vows? But through the divisions and heresies that have occurred, either in the East or in the West, from the Photian schism, but especially from the very origin of the Church, the Roman See of Peter and the Church united with that See have never ceased to be the true and unique Church of Our Lord Jesus Christ, which, built upon Peter, the prince of the Apostles, acknowledges its impregnable existence through its perpetual and never-interrupted succession, according to the divine promise. Heresies have passed, and with the vicissitude of times, they pass (2): they have been cast down to dust! (1) You have these letters exposed in Volume II, page 661. (2) It is fitting here to mention the honest testimony given by a heretical man, which cannot be doubted; and which is read in Macaulay's work, entitled: Critical and Historical Essays, volume 2, by Von Ranke, October 1840, which reads as follows: "There is no, and there never was on this earth, a work of human policy so well deserving of examination as the Roman Catholic Church. The history of that Church joins together the two great ages of human civilization. No other institution remains standing which carries the mind back to the times when the smoke of sacrifice rose from the Pantheon,

[*Latin ed. p. 173*]

APPENDIX IV. She, swayed by the sweet power of her blessing, placed diadems upon her sons, the elders: she was young when, having put on her shield and armor, she fought against the barbarian hordes alongside her sons, in order to preserve her people, nurtured in her faith, unharmed. And although she arranged her garments and hair in various ways in each age, either to conform to the innocent customs of her children, as a mother of youth, or to reflect the customs and safety of their faith: she never, not even for a moment, removed the banner of the faith received and of unity from her hand. Concerning the possession of truth and justice, Segura never feared those who rose up against her; she never fought without being victorious; she never won without becoming more glorious. Clothed in the most splendid light of virtue and sanctity, she constantly kept her eyes fixed on her heavenly spouse; from Him alone she acknowledged the inviolable nature of her existence and all her goods; and she never saw limits to life within the confines of the world, which she would grant, so that all who are children of men might live that life, which is the life of Christ the Lord, so that Christ might live, reign, and rule in it, with it, and through it.

A NEW EDITION OF THESE PUBLICATIONS IS APPROVED IN BALTIMORE. After we protested in volume XLIX against the Baltimore editors, the Reverend Fathers Kelly and Piet, we received letters from them, in which they informed us of their intention to publish a new edition of

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our publications, proposing some compensation for damages. Whatever may be said about the matter, whether it is permissible or not, without consulting the owner of the publications, to undertake a new edition; we announce to our readers that we have entered into an agreement with these esteemed editors for the preparation of a new, fifth volume in Baltimore: therefore, we approve of this Baltimore edition, to the extent that it agrees with the Roman edition; and, having learned of the honesty of these editors, we have no doubt about this.

PETER AVANZINI, ROMAN PRIEST.

[*Latin ed. p. 174*]

FROM THE HOLY CONGREGATION OF BISHOPS AND REGULAR CANONS, CONCERNING ECCLESIASTICAL MATTERS, August 13, 1869. Summary of Facts. A small monastery with a chapel was located in the town of N. When the French Government seized the agricultural properties of this monastery and chapel, and when the monastery with its chapel remained deserted, in the year 1819, it was sold by legitimate authority, along with all rights, claims, and appurtenances, for the price of 410 scudi; although it was estimated at 562 scudi. It appears that the price was reduced because the buyer was to assume the burden of maintaining the chapel, preserving the sacred furnishings, and performing ecclesiastical services. It was purchased by Mr. R., who immediately sold half of it to Mr. D. In that town, there existed a certain pious confraternity called "Prayer and Death," which needed a temple; it obtained this chapel, so that it might be used for its pious and ecclesiastical purposes. However, it obtained it under a certain private agreement, by written document, whereby it undertook the obligation of maintaining the chapel, along with other obligations which Mr. R. had assumed, except for the ordinary upkeep. In the year 1843, through certain contracts, the daughter of the aforementioned Mr. Dominic, Lady D., became the owner of the entire monastery; however, there was no mention of the chapel in these contracts. Later, in the year 1857, in order to pay off a certain debt of Lady Dominic, the monastery passed into the ownership of others, who again sold it to Mr. J., along with all servitudes, uses, and appurtenances belonging to said building.

[*Latin ed. p. 175*]

REGARDING CHURCHLY RIGHTS 175. Meanwhile, the sodality peacefully occupied the small church. However, it is said that when John, along with his family, began to inhabit the building, he caused trouble for the members of the sodality; therefore, in the year 1866, the members of the sodality petitioned the Sacred Congregation of Bishops and Regulars, and related that John was claiming rights over the small church; that he was

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demanding a sum of money for each deceased person who would be buried therein; that he dared to open tombs and remove the memorial tablets with which the deceased were commemorated, in order to sell them; and that he was also stealing candles purchased and kept by the members of the sodality. For these reasons, they declared that John should not interfere with their small church, which they had been using in good faith since the year 1832; and that if any agreement regarding this matter remained incomplete due to some omission or non-observance of the law, they would appeal to the Holy See for its rectification. When the Bishop was consulted about this matter, he reported that John had taken possession of the key to the small church; that he was receiving payments from the faithful for burials; that he had opened a door leading from his dwelling to the church, which had previously been guarded by the members of the sodality; and that he had granted the members of the sodality permission to build a sacristy. Furthermore, he stated that he had opened a window that had long been blocked in the wall of the church, so that access to the kitchen would be possible. He also reported that these matters, which he would determine on the occasion of a canonical visitation, would not be enforced by the owners of the building, except for the church itself, which was adjacent to John's dwelling; but rather, they would be ordered to be enforced against the members of the sodality. Based on these reports, the Sacred Congregation instructed the Bishop that, if the matters reported were true, John had incurred penalties, both for acts of encroachment and innovations made in the sacred place, and also for the theft of candles and the violation of tombs. Meanwhile, it was ordered that John, having returned the key to the church, should abstain from any further action until the controversy was resolved in the plenary sessions of the Sacred Congregation. Therefore, the parties were invited to present their claims before the Sacred Congregation within a period of one month. John, for his part, denied the accusations made against him, and defended his rights regarding the small church, stating that although the members of the sodality used it, he was the one who maintained it at his own expense. The Bishop, in a new letter, reported that John had repaired the roof and whitewashed the walls at his own expense, in accordance with the decrees of the canonical visitation, to which a clause had been added, at the expense of those to whom it applied.

[*Latin ed. p. 176*]

176 A Synopsis of Matters Concerning Church Law. OBSERVATIONS CONCERNING JOHN. It is noted, with regard to John, that material temples, considered in terms of the material from which they are constructed, the location they occupy, and the ornaments with which they are adorned, are compatible with secular matters; and therefore, they can be involved in worldly dealings, as Lotterius states in *De Re Beneficiaria*, I, 2, question 4, number 14, and Cardinal De Luca in *De Iure Patronato*, discourse 53,

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number 3, and in *Miscellanea Ecclesiae*, discourse 28, number 12, and the aforementioned author wrote in the cited discourse 53: "Concerning the granting of a chapel – and that honorific right which results from the usual dominion of chapels – it does not seem that the law requires any license or consent from the Ordinary; since nothing spiritual is given, as happens when the very right of patronage is granted, which implies a formal servitude to the Church or Benefice; but rather, it is said to be a proprietary right, which some call a subordinate right, while others call it a more proper usual dominion, pertaining to material things of estimable value; so that it comes into inheritance, and is also subject to creditors and falls under their jurisdiction, and can be sold for a price proportionate to the materials themselves, without any mixture of spirituality, as explained by Barbosa in *De Iure Ecclesiae*, I, 2, chapter 10; concerning burials, number 18." Furthermore, the Sacred Rota, in a certain case before Cerro, in the *Romana Fideicommissi*, on February 22, 1717 (which is reported by Fargna in *De Iure Patronato*, page 2, canon 14, column 13, number 31), observed that the possessor of land, in which a chapel is also located, if he alienates all his goods "with all and each of their rights," is considered to have alienated both the material church, which, with respect to the building itself and its location and ornaments, is said to be in secular inheritance and in worldly dealings, as well as the dwellings together with movable goods, which are like parts of the same... But Dominic R. purchased the monastery with all and each actions, reasons, and appurtenances: therefore, it seems that this contract passed to Dominic with the goods and also the chapel annexed to the monastery, and he acquired the right of patronage in it; while John succeeded to the rights of the same Dominic, when he purchased the monastery together with all the servitudes, uses, and appurtenances that belonged to said building.

[*Latin ed. p. 177*]

REGARDING ECCLESIASTICAL RIGHTS 177. It cannot be said that a confraternity acquired rights over the church, since it did not receive them by a valid title; for, moreover, there is no proof of the solemnity of this supposed transfer; furthermore, the consent of the Bishop was lacking, which is absolutely required in the alienation of patronage rights, as the Authors generally teach. Indeed, even if the confraternity had acquired these rights, it would have lost them, having failed to fulfill the conditions attached: for it did not, as it had promised, repair and maintain the church at its own expense; but, on the contrary, John bore these burdens, as the Bishop himself testified. With these things established, the donation ceased, as Fargna states in the aforementioned passage, canon 16, paragraph 8, number 3, citing many authorities and writing: "Because the original donor did not fulfill the condition and agreement stipulated in the donation, namely, because he did not repair the parish church, nor did he provide the expenses

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for its repair within the assigned quarter, which was the final cause for which the patron granted the patronage right, it follows that the donation is dissolved." If the concession to the confraternity were still in effect, the confraternity could not claim ownership of the same building, excluding John; since only the use of it was granted, namely, for the purpose of exercising its own confraternity duties, and not the rights that would belong to the patron of the same building. Moreover, the rights of the patron certainly include the right to hold the key to the church; Fargna, in the aforementioned passage, page 1, canon 4, paragraph 6, and others; it is also certain that, at the time of the foundation, the patrons can reserve the right to have the key to the church, or a window leading to their house; Paulat, dissertation 23, article 2, number 107; Cardinal De Luca, on servitudes, discourse 16, number 5; Monacellius, volume 1, form 10, ut supra, number 18; it is also certain that offerings and alms given to the church itself are to be converted to the benefit of the same; Monacellius, in the aforementioned passage, number 2; Charles Anthony De Luca, to Ventriglia, page 2, addition 16, section 1, number 16, as it seemed that John had done from the proceeds of funerals or burials. If these rights did not pertain to John, he cannot nevertheless be accused by the confraternity to the extent that he would incur censure; for all that the confraternity imputed to John was entirely denied by him, either in general or in particular; nor, on the contrary, did the confraternity accusing him show, or sufficiently show, that John appeared to be guilty of any crime. Acts, volume V, section LII, 12.

[*Latin ed. p. 178*]

178 REGARDING MATTERS PERTAINING TO THE CHURCH, THOSE WHICH ARE ADVERSE TO JOHN. It was decided that the sacraments, concerning which we are speaking, cannot be validly administered in a building that has never been consecrated; therefore, they cannot be included in the sale of a monastery as if it were a commodity for sale; for sacred things are placed outside of human commerce. To confirm this, three reasons were adduced, based on the following principle, one of which, the case of Spoleta, from the ecclesiastical tribunal of September 12, 1829, was discussed in the Sacred Congregation, while the other two were found in the Sacred Congregations of Bishops and Regulars, which are referred to in the collection of the Most Reverend Gard. Bizzarri, pages 497 and 498. It is appropriate to give a summary of these here. In the case of Spoleta, two temples were in question, which were attached to religious houses; after the regular canons were violently suppressed, Titius had purchased these houses. When the legitimate government of the Roman Pontiff was restored, although Pius VII considered the contracts concerning ecclesiastical property to be valid by his apostolic authority, nevertheless, those pious places, which had not changed their appearance at that time, were restored to their original purpose. After this law was issued, Titius

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began to destroy the interior parts of those temples. When this came to the attention of the Archbishop, after an investigation, he condemned Titius to restore those temples within six months; and after that time had passed without this being done, he ordered that Titius should pay a fine of ten gold coins each day. Terrified by this decree, Titius appealed to the Sacred Congregation, arguing that he had purchased, in an auction, not only the religious houses but also the temples adjacent to them and connected to them, since, in the sale of buildings, everything within their boundaries is included, unless the seller specifically excludes something; the Gallican law states that nothing was specifically excluded: indeed, since the government itself had stripped those temples of their sacred vessels and ornaments, and had put them to profane use, by that very act they had been subjected to sale as profane things. Nevertheless, the question remained: "Whether and how the decree issued by the sacred tribunal in this case should be enforced?" The response was: "Affirmatively, in the following manner; that is, (Titius) should be given a new term, at the discretion of the Archbishop, to restore the churches to their original state; after that time has passed, the Archbishop, using all legal and practical means, should ensure that the restoration of the churches is carried out at the expense of the same (Titius), with a sequestration placed on his assets."

[*Latin ed. p. 179*]

REGARDING MATTERS PERTAINING TO THE CHURCH 179 and in order to compensate for the penalties incurred, he shall reimburse the expenses of the legal proceedings (1), and consult his conscience, and furthermore. The second case mentioned is briefly explained in the aforementioned collection on page 497: "In Rome, concerning the alienation of a church. In the year 1812, when the goods of the Church were being seized under the authority of the French usurper, a certain Titius purchased, in a public auction, the convent building of St. Mary across the Tiber. Since a small church was attached to this religious building, the buyer believed that it had been included in the sale and was therefore obligated to cede it to him. Consequently, he did not fail to carry out, with his own funds, all that pertained to public worship and the maintenance of the church. Later, he alienated the building itself, but reserved the church for himself. On the verge of death, he bequeathed this very church, together with all its sacred furnishings, jointly with the church of St. Mary in the Forum, with the condition that 100 scudi be paid for his funeral and other prayers for the soul. "When there was doubt as to whether the purchase of the church was valid, since it concerned a sacred thing that is outside of commerce, the question was proposed to the Most Reverend Bishop and the Regular Canon: "Whether the said church belongs to the legatees or rather remains in the disposition of the Reverend Gard, the Vicar." On March 13, 1840, the

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Sacred Congregation responded: "Negatively to the first part, affirmatively to the second: and with the understanding that the Reverend Vicar should take care to compensate for the improvements made in the church of St. Margaret, and that the value of such compensation should be applied to the expenses of the funeral." The synopsis of the third case is as follows: In Fermo, concerning the restitution of a church. During the last incursion of the French, when all ecclesiastical goods were being destroyed at the discretion of the occupiers, the Monastery of St. John in Cittanova, inhabited by the religious women called the Daughters of St. Clara, together with other ecclesiastical goods, was awarded to Prince de Beauharnais, who was then serving as Vice-Regent in Italy.

(1) The reimbursement of expenses incurred in a legal dispute between the parties does not take place in cases that are handled by the Holy Congregations. For both parties, whether the one who wins or the one who loses, are obligated to bear the expenses of the legal proceedings themselves. However, there are certain cases in which the party that loses is obligated to reimburse the expenses incurred by the winning party: among these are cases of spoliation and theft, of which the case described above is an example. See what I noted in Volume I, page 87; and especially the case concerning the reimbursement of expenses, which I presented in Volume II, page 413 and following.

[*Latin ed. p. 180*]

180 CONCERNING RIGHTS RELATING TO THE CHURCH. After the restoration of the Pontifical government, the same monastery continued under the same lord, by virtue of the right of usufruct granted by the authority of the aforementioned Pope Pius VII. However, Prince de Beauharnais, by the authority of the same Pontiff, transferred the monastery, with those rights which it had acquired, to the Count de Saint-Leu by a public instrument. When the Most Reverend Archbishop Firman conducted a canonical visitation, he discovered that the church, which was attached to the monastery, both in its visible structure and in its ancient veneration, was being used for profane purposes. Therefore, by his decree, he ordered that all profane impediments be removed from there, and that the church be restored to public worship; and he notified the procurator of said Count by respectful letters that, within a period of two months, he should deliver the same church to him; as well as a certain meadow annexed to another church, which the aforementioned Count possessed. When the aforementioned procurator refused to do so, the matter was brought before the Sacred Congregation of Bishops, and a question was agreed upon in contradiction of the parties: "Whether and in what manner the decrees issued by the Archbishop during the act of canonical visitation are to be observed in this case?" The disputed cause was decided on September 25, 1840: regarding the first part, affirmatively, concerning the church; and

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regarding the rest, provision was made by an explicit declaration: namely, negatively. Therefore, with these things established, it was concluded that, in the present matter, John had not acquired any right in the small building of which we are speaking. Especially, when, upon examining the instrument of sale of the monastery, if mention had been made of the small church, it would not have been made for any other reason than that the buyer of the monastery should preserve the small church and its sacred furnishings. Therefore, the buyer assumed not a right, but an obligation: not indeed by any shadow of the patronage, but by the lower price at which he purchased the monastery. Whatever the relations may have been that existed between the buyer of the monastery and the small church, those same relations were transferred to the sodality by the cession of the year 1832, which remained confirmed by the constant use and possession. Nor does the lack of explicit consent from the Bishop constitute an obstacle, when the possession which the sodality had of the aforementioned small church was known to the Bishop, who was empowered to order the execution of the decrees of the visitation to be enforced against the same sodality; therefore, there was at least tacit and sufficient consent.

[*Latin ed. p. 181*]

REGARDING RIGHTS CONCERNING THE CHURCH 181. It cannot be said that a confraternity, by right, decided that a certain structure should not be maintained, or that it should not be preserved; for this requires the prescription of a term. If John himself made these alterations improperly, then indeed one can take action against the confraternity for the acts committed, but one cannot assume the rights of the confraternity based on a cession that has already taken place. Finally, if there should indeed be some right of patronage present, it is not permitted to perform acts of possession or to make alterations, of which John himself had been accused by the confraternity. And from this, having mentioned the acts of possession and alterations, something was noted regarding each: especially concerning the opening of a blocked window, and the door of the sacred chapel on the side, which, if they could have been of use to a religious family, it cannot be said that John and his household did so without Apostolic permission, since it concerns a place that is immune and sacred; and this is only permitted to those patrons who have reserved these rights from the very beginning of the foundation. Much less is it permitted to them to take the candles of the confraternity and to violate tombs; and it was noted that, although he denied these crimes, he did not purge himself; therefore, it seemed that he had incurred the censures which, in the Council of Trent, Session 22, Chapter 11, are inflicted "with these words: 'If any cleric or layman... has been so consumed by all kinds of wickedness, that he has dared to convert to his own use the jurisdiction, goods, revenues, rights... of any church... by any means or pretense whatsoever... he shall be subject to an anathema

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as long as he does not fully restore to the church and its administrator or beneficiary all the jurisdiction, goods, things, rights, fruits, and revenues which he has seized, or which have come to him in any way, even by donation from a supposed person, and then obtains absolution from the Roman Pontiff.'" With these and other observations, the following questions are to be resolved: I. "Whether and how the Confraternity, called 'Of the Prayer and Death,' should hold possession of the church of Saint Mary *a mercede* in this case." II. "Whether it is established that John (N.) has incurred ecclesiastical censures in this case."

[*Latin ed. p. 182*]

182 REGARDING MATTERS OF CHURCH LAW: The Holy Congregation of Bishops and Regulars, having considered the matter presented at a meeting held on August 13, 1869, responded as follows: To the Ordinary, who shall provide, in a suitable manner, for the custody and upkeep of the church through the granting of its use to a confraternity, provided that the confraternity undertakes the burden of maintenance effectively. John (N) has no right of patronage, nor any right [to interfere in the administration]. The aforementioned Ordinary shall be given a deadline both to render an account of the revenues received, after deducting expenses incurred with his favor for the aforementioned church, and to board up the window facing into the church. The same Ordinary shall cause the door in the side wall of the church to be boarded up, and shall, as is legally appropriate, regulate the rights of burial in the same church. To the second point: According to what has been stated, it is not the case. FROM THE COMPLAINTS, IT IS UNDERSTOOD THAT: I. Places dedicated to public worship are to be outside of human commerce (1). (1) This principle is most firm, not only in canon law, where the sale of sacred things, as long as they remain sacred, is null and void by law and, furthermore, sacrilegious and subject to penalties; but also in civil law among civilized nations, it has always held firm, guided by the law of nature. On this matter, Justinian decreed, in I. 21 C. de sacrosanctis ecclesiis, not prohibiting new actions, but recalling old ones: "We decree that no one is permitted to draw, on the most sacred and secret vessels, or on vestments, or on other offerings, which are necessary for the divine religion, a sale, or a mortgage, or a pledge, but that those who have dared to undertake such things should be reclaimed in every way, both by the most religious Bishops, and by the officials, and also by the custodians of sacred vessels; no action should be left to them, either regarding the receipt of the price, or the demanding of interest for what has been pledged, but all such actions should be suppressed in every way, to compel the restitution of these things. But if they have been, or have been, or in some other way altered or dispersed, nevertheless, whether it be regarding the very things themselves, or regarding the price of them, it is permissible to demand them, either through a real action, or through a

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conditional action, or through a factual action, the tenor of which has often been admitted in many and various articles of law." Furthermore, in the Institutes, book 2, title 1, § 7, he likewise decreed: "Sacred and religious and holy things are not the property of anyone; for what is of divine law, is the property of no one. Sacred things are those which have been duly consecrated to God by the pontiffs, such as sacred buildings and offerings, which have been duly dedicated to the service of God; which, by our constitution, we prohibit from being alienated and encumbered, except in the case of the redemption of captives. But if anyone, by his own authority, should constitute something as sacred to himself, it is not sacred, but profane. The place in which sacred buildings are..."

[*Latin ed. p. 183*]

REGARDING CHURCHLY RIGHTS 183. Why, in a legitimate sale of a building previously belonging to a religious order, to which a sacred edifice is attached and dedicated to public worship, the sacred edifice cannot be considered sold along with the building.

III. It cannot be said that the material structure can be valued with a price; therefore, under this aspect, temples can be subject to human commerce. That which has been dedicated to God by the authority of the Church cannot be subject to profane commerce, unless the same authority of the Church completely converts the building to a profane purpose.

IV. No right of patronage can be derived from this, since the right of patronage, which is called real and adheres to the thing, can be transferred along with the entire estate if it existed before the building was constructed; even if the building is destroyed, the sacred character still remains, as Papinianus also wrote.

These are in accordance with Novella 7, chapter 11, title "Concerning the alienation of ecclesiastical property," in which these statutes are read: "When we have learned that some grave offense has been committed in Alexandrinus, in Aegyptos, and in other places within our empire, that some religious houses have dared to sell, exchange, or give away (in which the altar is placed and the sacred ministry is performed, which is carried out in the most holy churches through the reading of the sacred scriptures and the most sacred and ineffable communion, where also the monks reside), so that they have been transferred from sacred and pious use and condition, we absolutely forbid this from happening in the future, and we do not allow anyone to do so. But if anything has been done, we declare it completely void, and we impose the loss of the price on the recipient; and we impose a penalty on the seller for the loss of the thing and the price, and we restore it to the most holy church and to the venerable monasteries of that place."

As we have indicated, Justinian did not present these as new laws, but rather recalled ancient ones, which were established in the wise and most

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ancient Roman law. Indeed, these are read in I. 6 ff. concerning the division of property: "Sacred things are religious and holy, and are not the property of anyone; but sacred things are those which have been publicly consecrated, not privately; therefore, if anyone privately makes something sacred, it is not sacred, but profane. Once a building has been made sacred, even if the building is destroyed, the place remains sacred." And in I. 73 ff. concerning the making of a purchase, the following is also established: "If a sacred building is destroyed by an earthquake, the place of the building is not profane, and therefore it cannot be acquired." And in I. 43 ff. concerning the recovery of property, it is read: "Those things which belong to religious orders are religious, and therefore neither the stones of a building can be claimed after they have been removed."

These, indeed, are from the ancient Roman law, which was and is the foundation of all the wisest of legislations. The canon law could not be alien from such principles, which are closely connected with the principles of both natural and revealed religion; therefore, we also find these accepted in substance in the canon law, and they are transmitted as a firm rule in Reg. iuris in 6°, reg.

[*Latin ed. p. 184*]

184 CONCERNING RIGHTS with regard to the Church, these cease (1); but not if the Church did not previously exist, or if it has ceased to exist, or if it has been transferred. V. Nor do the patrons of temples have the right to communicate with temples adjacent to their property through internal doors or windows, unless they have reserved this for themselves at the foundation, or have obtained it by Apostolic authority. VI. Indeed, patrons are not able to interfere in the administration of church affairs (2). VII. Finally, persistent violators of ecclesiastical immunity incur censures by the very act. VIII. However, in the present matter, it did not appear that John had violated immunity in bad faith, since at least the shadow of another's right was present, and therefore the censures imposed by John were not applicable. 51: "Once dedicated to God, it is not to be transferred." From this follows a series of interpreters of canon law, who have explained and illustrated these rights: some are relevant to the matter. The Glossa on the alleged Rule 51 proceeds to the point of stating: "Let us suppose that a church is consumed by age, so that 'this church needs a new roof for its preservation': old wood is removed; is it permissible to build a private house from it? It is answered that it is not: because 'since that wood was dedicated to God, it should not be returned to human use.'" Cardinal Tuscân, in Conclus, no. 10, writes: "Although a building may yield to the soil, it is different with a church, because the soil yields to the church." And in conclusion 22, with the same words: "If a new church is built even without the permission of the Bishop by laymen, the soil yields to the church and cannot be reduced to secular uses, but it can be reclaimed by the Bishop, because the builders

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and those who erect it are considered to have intended everything that followed from such construction; especially if Mass has been celebrated in it. Furthermore, even a church that is not consecrated enjoys ecclesiastical immunity." Also, Sabellius, citing a series of authors, in Sum. divers, tract. v. ecclesia n. 22, says: "A church that has not yet been consecrated, if it has been built by the authority of the Bishop, enjoys immunity; amplia, even if Divine services are not celebrated in it, or if it is not yet perfectly constructed, and construction is sometimes interrupted; because when the first stone has been laid by the authority of the Bishop, such a church remains dedicated to divine worship by that very fact, and cannot be converted to profane uses. Also, a church of a college that has collapsed and been destroyed, if there is hope of restoration, enjoys immunity." Those things which have been noted above, concerning temples which can be considered according to material estimation, have a very limited use in some of the rights of patrons; concerning which matter, see what I have written in Vol. III, page 520. (1) Compare the case which I cited in Vol. II, page 695. (2) Compare the case which I cited in Vol. II, page 436 and following.

[*Latin ed. p. 185*]

On the 17th of September, 1869, a summary of the facts. The Subalpine Government in Italia, having seized ecclesiastical goods, granted a pension to ecclesiastics, which pension often did not equal the income previously derived from Benefices. Moreover, this assigned pension proved to be even smaller for each individual, as the greater the burdens that previously weighed upon the Beneficiary, the smaller the pension became. For that Government did not consider that Beneficiaries were often burdened by obligations, such as the payment of legacies of Masses, or pensions, and other similar charges. Finally, this pension was reduced to a minimum due to the addition of new taxes imposed by the same Government, whatever name or title it chose to give to these taxes. From this violent disruption of affairs, the following question arises spontaneously: what is to be done concerning the obligation of those Beneficiaries who, having had their Benefices seized by the Government, receive in their place nothing other than a pension greatly diminished? Are they obligated to pay the ecclesiastical pensions that previously burdened them? Are they obligated to pay them in full, or rather, are they obligated to pay them in a proportion reduced? Therefore, the Cathedral Prefect N., who received an ecclesiastical pension of ten scudi from another Canonicate, and who, in turn, was burdened with the payment of an ecclesiastical pension of thirty scudi to a certain Presbyter, and a question having arisen concerning whether the pension should be reduced or paid in full, and although the Prefect himself was of the opinion that the pension should be reduced in proportion to the burdens, he nevertheless judged that this could not be done without Apostolic authority; for this reason, he made supplications to the Sacred

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Congregation of Bishops and Regular Canons, asking whether, due to a new decree issued by the Government on August 15, 1867, by which the pensions of the Government were reduced by thirty coins for each hundred, the ecclesiastical pensions could be reduced in proportion to the burdens. With the customary formalities observed, the following points were discussed:

[*Latin ed. p. 186*]

186 A Synopsis of the Discussion Concerning Pensions. THOSE MATTERS WHICH HAVE BEEN CONSIDERED FOR A COMPLETE SOLUTION. It is noted that, in the past century or at the beginning of the present one, in a similar unjust compilation of ecclesiastical goods, pensions granted by the Government were considered, with necessity, to take the place of Benefices with regard to the obligations and rights that previously belonged to Benefices. Indeed, in a certain case of Nullius Foropompilii brought before the Sacred Congregation, when the question was proposed: "Does a pension constitute a *subrogation* of the revenues of a Canonry in this case?" The Sacred Congregation, on December 16, 1820, decided: Affirmative. This same resolution was also invoked in the case of Missae pro populo et Legatorum on February 9, 1822, §. Furthermore, when it was asked whether Canons, who receive a pension from the Government, are obligated to make sufficient offerings for the souls of the departed, it was noted, in accordance with the affirmative opinion: "Although the fruits of Benefices are not precisely received, nevertheless, the equivalent amount received in pensions is a *substitute* for the revenues of suppressed Canonries." This Sacred Congregation declared this in the case of Nullius Foropompilii, etc. Therefore, considering the payments or pensions granted by the Government in place of Benefices, it appears that ecclesiastical pensions, by which Beneficiaries may be burdened, must be paid in full; and this is consistent with the laws by which pensions are often imposed by the Roman Curia, which must be paid in full and free from any burden by the Beneficiary: concerning which matter, there was also a discussion before the Sacred Congregation in a certain case at Hortana, Congruae, on April 11, 1807, regarding whether a certain parish priest of SS. Iosephi and Marci could retain, under the title of *rata commodi* (from a tax imposed by the Motu Proprio of Pope Pius VII, of blessed memory, published on March 19, 1801), a tenth part of the pension that he was obligated to repay to the parish priest of S. Michaelis; and the question was proposed: "Is the parish priest of S. Michaelis obligated to pay the *rata commodi* (tax) for thirty scudi, which were received by the parish priest of SS. Iosephi and Marci in this case?" The Sacred Congregation responded: Negatively. Therefore, it does not appear that he who receives a pension...

(1) What is meant by the words *rata commodi* is explained in Volume I,

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page 101, in note C. Furthermore, the case related there provides a greater understanding of the present matter.

[*Latin ed. p. 187*]

187. He shall receive the pension, and shall be obligated to contribute a proportional share of taxes.

II. WHAT IS CONSIDERED FOR THE PENSION TO BE DEDUCTED. It has been observed, although the pension is generally considered a real burden on the Benefice, as Pyrr. Gorrad. states in *Praxis Beneficiorum*, Book 5, chapter 7, paragraph 9; nevertheless, as the author himself notes in Book 5, chapter 2, paragraph 16, it rather adheres to the possessor of the fruits of the Benefice. On this matter, Cardinal De Luca wrote in *De Pensionibus*, discourse 19, paragraph 8: "I said that the pension is nothing other than 'a certain portion of the fruits, which the Pope extracts from the fruits of the pensionary church and assigns to others, leaving the remaining fruits for the benefit of the titular, who, by virtue of an implicit administration, receives all of them with the obligation of distributing the portion assigned to the pensionary, and of paying a certain uniform sum, which is assessed annually to resolve disputes regarding prices and settlements, in the manner of that tax on fruits, which is levied in societies of offices or other businesses.'" From this, the Canonists call the pensionary a partner of the titular in the enjoyment of the fruits of the Benefice, as Rebuff. *depacif.*, number 138, Tondut. *de pens.*, chapter 6, paragraph b and following, Gigas *de pensionibus*, question 38, Barbosa *not. decis.*, 96, number 100 state. These same authors attribute to the pensionary a quasi-personal action against the possessor of the Benefice, although the possessor is not obligated by his own act, as is the Beneficiary, who, by accepting the Benefice burdened with a pension, is said to contract with the pensionary, as Cardinal De Luca observes in *De Pensionibus*, discourse 26, paragraph 2. Therefore, the obligation to pay the pension is derived from the fruits produced by the Benefice, whether an economist administers the Benefice, or even a sequestrator, as Garcia notes in *De Beneficiis*, page 1, chapter 5, paragraph 188. Furthermore, it follows that the burden of paying the past pension not yet paid is to be divided between the predecessor and successor in proportion to the time during which each enjoyed the Benefice; Garcia, *loc. cit.*, number 190. Therefore, strictly speaking, the pensionary does not have a right in the Benefice, but only in the fruits of the Benefice. These considerations are in perfect agreement with the reason given in the *Hortana* case cited above, in which the Sacred Congregation decreed that in paying the pension, a proportional part of that tax which we call the proportional share of the fruits cannot be deducted: and this for

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the reason that, "if the reason of the law is investigated, it is because..."

[*Latin ed. p. 188*]

188 "Pensions, dues, and revenues constitute a certain property right (in the very beneficial holdings) as compensation; therefore, if a tax was imposed upon the property of these holdings, it was fitting that those who also enjoy a portion of the property should bear it. But when creditors of pensions and annuities retain no dominion or right in the funds, it is clear that the reason for being held to pay a proportional share does not apply." However, in the present matter, an extraordinary tax of thirty coins for each hundred is imposed by the aforementioned government law, and this cannot burden the property, since the ecclesiastical benefices have been converted by that government into annual pensions. Therefore, just as in the alleged case of Hortana, the beneficiary could not diminish the pension due to the proportional share that burdens the property; so, conversely, it seems that the beneficiaries about whom we are speaking can diminish the pension due to the extraordinary government tax, since this burdens not the property, which has been taken away, but the fruits thereof. On this matter, Grazia, loc. cit., n. 171 states: "When a pension is applied to the fruits and revenues of a benefice, the pensioner will be obligated to pay a proportional share of the subsidy and exemption, and other burdens imposed with respect to the fruits of the benefice." Gigas, q. 38, Marches, de commiss., p. 2 c. 4 de Commissione, n. 49 states, "that, when a pensioner is obligated to bear these burdens in proportion to the amount, the rector, by collecting, can retain a proportional share." Also, Pitionius, discept. eccles., 56 n. 47 states, "When the contribution regards the fruits of benefices, there is no difference in reason for the purpose of paying the contribution between the holders and the pensioners, since they are said to be associated in the fruits, and therefore, by law, they are both obligated to contribute to the burdens." Thus, other authors also hold this opinion. Nor does the practice of the Holy Rota and the Holy Congregations suggest otherwise. For the Holy Rota, in the case of Ausculana, concerning pensions, on February 17, 1586, before Pamphilo, as Gigas reports, quaest. 59, resolved: "The pensioner must contribute a proportional share of his pension in the burdens imposed by the religious order of Jerusalem upon the fruits, concerning which a reservation is made, notwithstanding the clause exempting from all burdens; because this exemption was abolished by the Constitution of Gregory XIII, as in the case of Toletana, etc." And this has been resolved on several occasions, as Garzia, loc. cit., n. 1 states.

[*Latin ed. p. 189*]

Pension Laws 189 state the following: "Concerning the Decree of the Council, chapter 18, session 23, which states, 'this provision applies to this portion,' whether seminaries are established before the reservation or after,

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the Congregation decided: 'it applies; therefore, the beneficiary must be required to pay for the pension, which he pays, even if the seminary was established after the reservation of the pension; but the beneficiary may retain in proportion whatever he has paid to the seminary on account of the pension.' And on March 30, 1594, the Holy Congregation decided: 'a titular [bishop] cannot deduct from the pension which he pays, on account of a contribution made by him to the seminary, except in proportion to the pension, and to the extent to which the titular himself contributed.' And the Holy Congregation of Bishops and Regulars, in certain circular letters given on April 1, 1851, concerning the ecclesiastical tax, declared: 'Rectors of benefices, of whatever nature, which are subject to these prescribed taxes, have the right to retain each year one-twentieth part for each one hundred nummi from the same pension imposed upon them. The same right is enjoyed by Communities and by anyone else who contributes, whose property is burdened by pensions.'" From these, the conclusion was drawn, in accordance with the opinion of Ferraris, in the *Bibliotheca Canonica*, under the word "Pension," number 133, where he wrote: "Generally, the pensioner must contribute in proportion to the pension for all the burdens of the benefice, unless the Pope has added that the pension is entirely free, immune, and exempt." On this occasion, another matter was also considered, which, although not directly related to the case, was nevertheless relevant to our situation. There are titulars who, either because of the amount the government assesses as a pension, or because of the burden of taxes, deny ecclesiastical pensions in whole or in part; because the income from the benefice does not leave them a suitable portion, as prescribed by the Council of Trent. Indeed, the Council stated, session 24, chapter 13, concerning benefices: 'In the future, all cathedral churches, whose revenues do not exceed the sum of one thousand ducats, and all parish churches, whose revenues do not exceed the sum of one hundred ducats, according to their true annual value, shall not be burdened with any pensions or reservations of fruits.'" Concerning this matter, the authors teach that the pension should be reduced or eliminated, if, with the pension remaining, the aforementioned suitable portion would not be preserved, as Lotterius also teaches in *De Re Beneficiaria*, I.1, question 42, number 60.

[*Latin ed. p. 190*]

190 REGARDS TO PENSIONS: Concerning other beneficiaries, to whom the quantity of the portion is not determined by law, it cannot easily be indicated whether the ecclesiastical pension or its extinction should be reduced: for although many maintain as a rule that the burden of pensions should not exceed one-third, or at most one-half, of the fruits; as Gigas notes in *De pens.*, q. 9, nn. 1, 2, 3, and others; nevertheless, this rule is not always observed entirely. In order, however, that, in accordance with canonical equity, the portion of income due to beneficiaries should not be

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diminished by added pensions, so that a just proportion remains for their honest livelihood, according to the custom of the place and the people; as Fagnanus states in *Cap. Nisi, de Praeben.*, n. 27, and others; and as the Sacred Congregation *Gubernatio* decreed in the case of *Caesenaten. Pensionis*, on February 26, 1825. But these things said thus far concern pensions imposed on benefices as a lucrative title, and not as a burdensome one: if, however, we are speaking of a pension imposed as a title of some spiritual office, or of the care of souls, and other similar things; in which the cause of the pensioner appears more important and more noble than the cause of a simple titular beneficiary, then it is not to be said that the same rules apply. Moreover, if a pension were reserved for the cause of resignation of a benefice, with added clauses, it would be no less difficult to reduce the pension; for in these cases, with the pension diminished or extinguished, either the title of retribution or the condition added to the resignation would cease, and the resignation itself. With these considerations in mind, and yet without it being necessary, in the present circumstances, to resolve the present question by establishing a rule, the following question was proposed: "Whether and how provision should be made for the prayers of the Prefect of the Cathedral (N)."

RESPONSE: The Sacred Congregation of Bishops and Regulars judged that it should be answered: "Affirmatively, given the faculty of retaining a just portion of the tax actually extorted."

FROM WHICH IT MAY BE GATHERED: I. That ecclesiastical pensions, by their very nature, immediately affect the fruits of benefices; but they do not affect the property of benefices except mediately and consequentially.

[*Latin ed. p. 191*]

191. Concerning Pensions: I. Why may not one associated with a Benefice be called a "Pensioner," but rather, correctly, an associate in the fruits of the Benefice, to a certain extent, by virtue of an external title? II. Hence, the burdens which immediately affect the property of Benefices are not borne by the Pensioner, unless, indeed, the property itself is burdened by such burdens, so that canonical equity requires that the Pensioner also contribute to the support. III. It cannot generally be said that the burdens immediately superimposed upon the fruits of Benefices diminish the pension itself by law, since the Pensioner is an associate in a certain part. IV. Canonical equity does not suggest that, with diminished fruits, the pension should always be diminished, when the pension is imposed by an external title, which may be such that canonical equity favors the Pensioner more than the titular. V. In the present circumstances in Italy, those associated with Benefices have not lost the right of property, although they have been violently expelled from possession; nor have they lost the right to receive the fruits derived from the same property, although a portion of the revenues is assigned to them by an incompetent authority. VI. Therefore, if

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an arbitrary portion remains, which is considered in some way in place of the genuine fruits, the Pensioners also retain the right to have a certain part of that same portion. VII. However, canonical equity requires that, in proportion to the diminution of the fruits, having regard to the title of the pensions, and the quantity of others and additions, the pensions be diminished, or even eliminated, by ecclesiastical authority (1). (1) The formal cause from which it appears that the practice of imposing pensions on richer Benefices arises is that evangelical saying: "What remains, give to the poor." However, the Church also needed means to support those who had deserved well of the Church, so, from the superfluous revenues of Benefices, it withdrew a portion by its authority, and granted it to them. Consequently, pensions were imposed only on richer Benefices; and that ecclesiastical law, conceived in these words: "Benefices are conferred without diminution," underwent a certain derogation. Nevertheless, the rule remained that a pension should not be imposed on Benefices which were sufficient only for honest sustenance. However, as circumstances suggested, the imposition of pensions became more frequent, and the rule was also established that the pension should not exceed one-third of the fruits. These rules were sufficiently observed in the Apostolic Dataria (which alone, in ancient times, imposed pensions). But when the local Ordinaries, with the increase of custom, began to impose pensions, they also established that...

[*Latin ed. p. 192*]

SOLUTIONIS, die 17 Septembris 1869. Compendium facti. In oppido N., collegiata ecclesia exstat, quae antiquitus componebatur Priore et tribus Canonicis, qui reddituum massam communem habebant: his recentius quatuor alii Canonici sunt superadditi, singuli praebendam distinctam atque separatam habentes. Anno 1861, Italicum Gubernium bona omnia illi subripuit, atque, inventario facto, pensionem dandam constituit, quae redditibus responderet. Dedit interim quandam pecuniae summam Priori, ut eam Canonicis aequa proportione diriberet; atque canonicus C. ratam portionem habuit tamquam redditibus respondentem in Libellis 153, et alter Canonicus S., ambo secundae erectionis, habuit 236. Mense Martio 1862, ab eodem civili magistratu elenchus datus est Priori cum descriptis portionibus, quas singuli Canonici ab aerario quotannis adsignatas haberent; atque Canonicis singulis primae erectionis portio adsignata est in Libellis 1147; Canonico G. Libell. 106, et alteri 121. Hi duo aegre ferentes, sibi eam non adsignari portionem in ea quantitate quam prima vice a Priore acceperant, subscribere noluerunt solvendi mandatum, seu tesseram nummariam; at vicissim thesaurarius solvere recusavit.

Ponere incepissent; quumque vicissitudine temporum, Beneficiis ecclesiasticis sublatis aut varia ratione imminutis, saepe contingat, ut ille Clericus videatur dives, qui Beneficium aliquod obtineat, in comparatione eorum, qui Beneficium non obtineant, aut saltem tenuissimum obtineant, hinc fac-

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tum est, ut illae regulae minus servatae videantur, prae oculis potius habita aequa reddituum partitione, quam congrua cuiusque Beneficiarii sustentatione.

Quamvis autem Beneficiarius sit, qui potiorem titulum habeat percipiendi sui Beneficii fructus; attamen, quum pensionum impositio per modum firmae legis in parte fructuum certa fiat, quam declinare non possint illi, quos pensio gravat; quum ob varios titulos sive iustitiae sive aequitatis pensiones imponantur, consequitur, ut non ipso iure et facto imminutio pensionis eveniat, quando Beneficiario valde imminuantur fructus, sed per interventum auctoritatis ecclesiasticae competentis, quae solet esse illa, quae pensionem imposuit, quaeque causa cognita de hac re decernat.

[*Latin ed. p. 193*]

SOLUTION 193. The Canons of the first foundation promised both Canon C. and Canon S. that they would supplement their pensions, should they be lacking; and they urged them to sign the aforementioned monetary agreement. Subsequently, in drafting the document of this promise, the Canons of the first foundation stated that they would provide this supplement not out of any burdensome obligation, but purely out of generosity, and that this obligation would cease if, at any time, their assigned pension were to be insufficient, diminished, or discontinued; however, the death of any of the beneficiaries would render such an obligation null and void. The two aforementioned Canons did not accept these conditions; and for this reason, the very Canon who proposed the drafting of the obligation did not, in that same year, fulfill the promised supplement; nor did others do so afterward. Therefore, these two Canons, frustrated in their hopes, first sought to obtain something from the Government; and then they turned their prayers to their own Archbishop, so that by his authority, the senior Canons would fulfill the promise they had given, which they were obligated to fulfill, not out of generosity, but out of justice, since the pension assigned to them by the Government exceeded the income they had previously received, to their own detriment. Seeing that the affairs of the curia seemed to be in disarray, these two Canons made supplications to the Sacred Congregation, so that they would fulfill the promise they had made, lest they receive more than was due to them from another's resources, and lest a judicial action be initiated, causing scandal. The Archbishop, when asked, did not express his opinion directly, but transmitted certain reasons, by which the senior Canons were persuaded, which are reduced to this: that the Government could not be presumed to have assigned more to the senior Canons at the expense of the junior ones; nor was a larger amount assigned to them; rather, the contrary was shown from a completed inventory, from which it was evident that each had received a portion proportionate to their income, whether of the

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junior or senior Canons; and that if the junior Canons had received more in the initial distribution, it was because of a less accurate understanding of the situation; the senior Canons had promised to provide a supplement so that the Government would not suspend the pensions of all; and finally, the junior Canons had been frustrated in their promise, because they had rejected conditions that were inherent in its nature, having waited five years, and finally having turned to the Government to request an increase in their pensions, rather than seeking the supplement from them. Acts, Volume V, page LIT. 13.

[*Latin ed. p. 194*]

194. SOLUTION. Having been invited, as is customary, to present their cases before the Sacred Congregation, the younger Canons also presented their arguments, which consisted in demonstrating that the pension assigned to them by the Government was, by a considerable amount, greater than the revenues previously received by the senior Canons, and that this was due to an error; and conversely, that their pension was less than it should have been. From this, they inferred that, since no one ought to enrich themselves at the expense of others, they should be justly compensated; especially since this arrangement had been made not out of generosity, but in order to secure the financial stability of the institution, so that, should a new examination of the situation be made, the pensions assigned to them might not be jeopardized. Therefore, the supplement truly represented a just settlement. For this reason, they rejected the conditions subsequently imposed, and they have never ceased to demonstrate this, as evidenced by the requests made to the Archbishop himself, and by the very appeal made to the authorities, so that, once the error was recognized, a just distribution might be made.

SYNOPTIC DISCUSSION.

I. OBSERVATIONS CONCERNING THE YOUNGER CANONS. It has been observed that the pensions which the Government pays to the beneficiaries, in place of the fruits of the benefices which it has taken, are subject to the same principles as those observed in the previous case concerning pensions. Indeed, each Canon has a distinct and absolute right to the fruits of his own benefice, and this right is not subject to the arbitrary power of the Government to assign the fruits of one benefice to another. Therefore, if a greater pension has been assigned to the senior Canons to the detriment of the younger Canons, it follows that the senior Canons are obligated to compensate the younger Canons; firstly, because justice demands it; secondly, because they are also obligated to compensate for the damages, those who have received an advantage from the damage; and thirdly, because others should not unjustly profit from the fruits that

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rightfully belong to the beneficiary by virtue of his office.

Therefore, the facts previously mentioned concerning the younger Canons have been recalled, and have been further corroborated by new evidence, to demonstrate that the senior Canons have obtained pensions that are greater than the fruits they previously received, to the detriment of the younger Canons. However, if it is certain that the pensions assigned to them were not greater than the fruits previously received, it is nonetheless certain that the pensions assigned to the younger Canons were less than the fruits previously received.

[*Latin ed. p. 195*]

SOLUTION 195: Pensions; and this is due to the fault of the Canon, who did not deliver the inventory accurately: therefore, the Prior, who caused the damage, is liable for the damage. But if, from the evidence presented, it does not appear that the juniors have a right to the pensions of the seniors, it cannot be doubted that a right arises from a promise, since the juniors have signed a monetary voucher under that promise. Nor does such an obligation cease because of the refusal of the juniors to accept a condition subsequently imposed by the seniors; for no one can change a plan to the detriment of another, Reg. juris 33 in 6; nor can a debtor make the creditor's condition worse; nor can silence on the part of the creditor eliminate the obligation, unless a legitimate prescription arises.

THOSE THINGS WHICH HAVE BEEN POINTED OUT AGAINST THE SENIORS. On the contrary, it has not been sufficiently demonstrated to the juniors that they have received pensions less than their true due, but they must demonstrate that what was given to them was less than what was due to them from an unfair distribution to the seniors; or that the seniors were the cause of the damage inflicted upon them. In the present case, neither of these things appears to be the case; indeed, on the contrary, a properly made calculation shows that the pensions of the seniors have not even reached the amount previously received. Nor is it established that the seniors caused the damage. Therefore, the obligation to provide a supplement to the juniors can only arise from the promise; but the juniors, by rejecting the conditions that were inherently connected with that promise, have thereby eliminated that obligation; since they cannot make the seniors' obligation more onerous, as if the seniors had evaded that promise and were liable for debt, while the juniors were liable for a stipulation, so that the former are perpetually free from debt and the latter from the stipulation: this cannot be presumed, since stipulations made with a lesser detriment are to be understood, I. 38 §. 18 ff. de verbor. obligat. "In stipulations, when it is asked what has been done, the words are to be interpreted against the stipulator:" also I. 9 ff. eod. tit. "Whatever is necessary to bind the obligation, if it is not expressly expressed in words, is to be understood as omitted. And we interpret according to the promisor, because it was free for

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the stipulator to conceive the words broadly." Especially since obligations in solidum are not to be presumed, but must be expressly proven, Authent. This is so, according to the two things that are established, and I. 3 C. eod. tit.

[*Latin ed. p. 196*]

SOLUTION 196. Furthermore, it appears that the younger priests have, by their very actions, relinquished the right that would have accrued to them from a promise, since, in truth, many of them remained silent for several years, and instead turned to the Government. Considering these observations, the question to be resolved is: "Whether and in what manner the senior canons are obligated to compensate the younger priests for the difference that exists between the pensions assigned to them and the revenues they received from the prebends, in this case."

RESOLUTION. — The Holy Congregation of Bishops and Regulars, having knowledge of the cause on September 17, 1867, decided to respond affirmatively, considering the promise made by the senior canons, and to refer the matter to the Archbishop for settlement, excluding any solidarity, and taking into account the existing burdens.

FROM WHICH YOU MAY GATHER:

I. No one is permitted to become richer through another's loss.

II. Therefore, if someone, in the division of property, in carrying out the laws of justice, with the intervention of a legitimate partitioner, receives more than another to the detriment of the other, he can be compelled to return to the legitimate partitioner what he received improperly, so that restitution may be made.

III. In the absence of a legitimate partitioner in ecclesiastical matters, the reintegration must be determined by the Bishop.

IV. Furthermore, you may gather that a promise given must be kept; therefore, obligations arise from a promise given, which cannot be presumed away (1).

(1) Considering the Roman law, which has governed the morals of men for so many centuries, the principle stated above, which is derived from natural law, was like a cornerstone around which many of the jurists' responses revolved, as can be seen in the Pandects under the titles concerning stipulations, verbal obligations, the meaning of words, and similar topics, in which the most minute inquiries are made into what was promised by words, what was meant, what was understood, what obligations arose, and to what extent they extended, etc., so that, if the principle stated above were to be neglected for a time, all those most minute determinations would, by that very fact, become meaningless. This shows how firmly that principle was held by the ancients. I have noted this to show the difference that exists

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in this matter between the morals of the ancients and the morals of the present age, since nothing is more easily presumed away in this present age, whether in private or public matters, than a promise given.

[*Latin ed. p. 197*]

197. V. Thus, the faith given through a promise must be understood in such a way that, in a matter of doubt, judgment should be rendered in favor of the promisor.

VI. However, in the present matter, it was not the case of a general division; since the goods of the elders were distinct from those of the younger, and it was not established that the elders became richer to the detriment of the younger, either by design or through error.

VII. Nevertheless, the elders could not refuse the faith given by themselves, although they might have been able to legally refuse a solidary obligation.

[*Latin ed. p. 198*]

FROM THE HOLY CONGREGATION FOR THE CATHOLIC TRANSLATION AND THE DISSEMINATION OF THE HOLY SCRIPTURES, on June 22, 1861, and September 4, 1869. Summary of the case. Outside the walls of the city N., there stood a sacred building, in which an Abbey had been established from very ancient times, now a simple Benefice of free collation. When the French were in power, this little church was converted to profane uses; afterwards, with the care of the Rector of the Benefice, it was restored to divine worship; but shortly, because it was situated in a hidden place, the door was broken, and it became a refuge for wicked men, and was open to all for dishonest uses. Nevertheless, the Rector of that Benefice again undertook its repair, which he completed, enduring great expenses; but because of frequent floods, the nature of the place and the position of the building, being located in a low place and near a public road, gradually became such that the Bishop of that time, understanding that it could no longer serve for divine worship, forbade its use, and ordered its entrance to be blocked up with a wall several years ago. Then, with the walls crumbling and the roof collapsing, it was threatened with ruin, so that the restoration had been useless, but it should have been rebuilt from the foundations, so that it could be restored to divine worship. Since the Rector was not in a condition to rebuild it again from the fruits of the Benefice; and since the temple was such that the people would receive almost no benefit or advantage from it; therefore, the same Rector, with a humble petition, requested the Holy Congregation to decree the profanation of the aforementioned building, and that the title of the Benefice established in it, with its attached burdens, should be transferred to one of the chapels of the cathedral church, with the consent of the Ordinary and the Chapter of the same cathedral, to which transfer a statue of the B.

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Virgin Mary should also be added, which is currently in the building used for profane purposes.

[*Latin ed. p. 199*]

Furthermore, TRANSLATIONIS and EMPHYTEUSIS 199 noted that in this chapel, there were neither tombs nor other ecclesiastical monuments. He also promised to burden himself with the obligations of fulfilling services in the same chapel, and of celebrating the feast day of the titular saint annually there, as well as of decorating the chapel at his own expense. Moreover, the aforementioned speaker explained that among the properties which constituted the endowment of the Abbey or Benefice, there were two which had been granted in emphyteusis for a period of three generations to Anthony P.; namely, a certain garden for a fee of 11 scudi, and a small house which was contiguous to the aforementioned church, for a fee of 9 scudi. He therefore proposed that the construction of the sacred building, after its desecration, should also be transferred in emphyteusis to a certain Lawrence G. (the successor of the aforementioned Anthony P., who had been originally invested), who had offered a fee of 8 scudi for it, but in such a way that the emphyteutic contract, which would extend to the third generation, would be made perpetual, including all other properties. However, he observed that the aforementioned small house had been so damaged by the Municipality that, with the cessation of the emphyteusis, it would not be possible to hope that the emphyteusis or lease of the same could be renewed in order to pay the scutators of nine. When asked about these requests at that time, the Bishop declined to provide information or a decision, stating that the income from the Benefice which the speaker possessed, after deducting expenses, amounted to 135 scudi. However, the speaker's requests were supported by all, who said: "Indeed, it is clear that the chapel in question has been so ruined by decay, old age, and the surrounding waters, that it is indecent, nay, impossible, to perform sacred rites there, unless it is first completely rebuilt at a great expense; and furthermore, since it remains standing in such a solitary place, it is a refuge and shelter for thieves and other criminals, there is no doubt that the Reverend Fathers will grant indulgence for the desecration of the aforementioned chapel. But, since it is equitable that this Benefice and its title should exist and that the obligations should be fulfilled, it is my opinion that a discussion should be held regarding its transfer to a chaplain of the cathedral church, for which the Reverend Canons have already agreed in a chapter meeting. Once this transfer has been completed, it will also be beneficial to the church if the chapel, after being converted to profane uses, is added to other properties granted in emphyteusis for an annual fee of 8

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scudi, and simultaneously, the emphyteusis itself is..."

[*Latin ed. p. 200*]

200 TRANSLATIONIS DE EMPHYTEUSIS: « temporaria, sicut nunc est, scilicet ad tertiam generationem, « ut canon ipse inde numquam minui possit, in perpetuum concedatur ». Ad haec, addidebat estimationem fundorum, et exponebat utilitatem contractus. Disceptatio synoptica. EA, QUAE ANIMADVERSA SUNT DE PROFANATIONE. Ex officio consideratum est, Concilium Tridentinum, sessio 21, cap. 7, vehementer commendare, ut aedificia ecclesiasticorum, ad restaurationem et conservationem, ne ea, quae sacris ministeriis dicata sunt, temporum iniuria obsolescant et ex memoria hominum excidant. Attamen, ubi pares ad id non essent redditus, si de templis non paroecialibus agatur, aperte permittere, ut, illis tandem neglectis, « Episcopi, etiam tamquam Apostolicae Sedis delegati, transferre possint Beneficia simplicia, etiam iurispatronatus, ex ecclesiis, quae vetustate vel aliis collapsae sint et ob eorum inopiam nequeant instaurari, vocatis iis quorum interest, in matrices aut alias ecclesias locorum eorundem seu viciniorum, arbitrio suo; atque in iisdem ecclesiis erigant altaria vel capellas sub iisdem invocationibus, vel in iam erecta altaria vel capellas transferant cum omnibus emolumentis et oneribus prioribus ecclesiis impositis....cum facultate ecclesias dirutas in profanos usus, dummodo non sordidos, erecta tamen ibi cruce, convertendi. Hisce autem perpensis, animadversum est cum Card. De Luca in adnotatione, ad Conc. Trid. disputationem 17, n. 2, dari posse et alia quoque adiuncta, quibus Ordinarii locorum in sacra visitatione decernere deberent profanationem, ut si de ecclesiis agatur exsistentibus extra loca habitationis et in locis campestribus seu ita positis, ut pro delinquenti et facinorosorum hominum confugio cum publicae quietis perturbatione deserviant. In praesenti autem themate, licet diviti redditu, deductis quoque oneribus, Beneficiarius, cui manutentionis ecclesiae onus ex eo inest, perfrui forte videretur; tamen eam esse praedictae ecclesiae conditionem ob loci naturam, ut non tam restauratione, quam nova aedificatione opus foret; siquidem haud expediret reparare, quod duraturam non admitteret reparationem, ceu in...

[*Latin ed. p. 201*]

TRANSLATION AND EMPTEUSE 201, similarly, from Brictinorien. September 13, 1792. Regarding the demolition, it was noted. Furthermore, it is established that the Beneficiary, the petitioner, did not neglect the previous restorations, which, rather than being harmed by the passage of time, were rendered entirely useless by the adverse location and the dilapidated condition of the building. To this, one must add the danger of irreverence, to which the chapel would be perpetually exposed due to the malice of wicked men, as past experience has shown. Finally, no detriment

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to the piety and benefit of the people seems to arise from the requested profanation, a matter for which the Holy Congregation has sometimes denied profanation or demolition, as in Ravennate, July 29, 1775, and in Aesin, August 26, 1780. Especially since the sacred building in question, and which has long been subject to interdict, remains closed, and lacks the circumstance of burial grounds; with these concurring circumstances, the Holy Congregation has often responded favorably to requests for the profanation of sacred buildings, as in Lucami, regarding the demolition and translation of Masses, August 18, 1781, and in Ariminen, February 16, 1788. It was noted that if the Holy Congregation were to decree the profanation of the church, it would also be necessary to decide regarding the translation of the Benefice with its annexed burdens and the image of the Blessed Virgin. It was considered that the proposed translation would be in accordance with the alleged Tridentine Constitution, that it would be a translation to a certain chapel of the cathedral church, which, with respect to other churches, is considered a parish church, to which translation the Bishop and Chapter had given their consent, and also that the Beneficiary would assume the burden of maintaining the chapel, as was the case in Narnien, March 24, 1657 (lib. 19 Decret, p. 642), and in Terracinen, April 14, 1764, and elsewhere.

ON THE EMPTEUSE CONTRACT. Regarding the proposed emphyteuse contract, it was noted that there is nothing to prevent the building in question, after being subjected to profanation, from being used in commerce, since it would cease to be a sacred building; St. Thomas 2, 2, q. 106 art. 4 ad 2. Furthermore, it is fitting that the revenues, whether from rent or from emphyteuse of the same building, be converted to the benefit of the Benefice, as was considered in Ariminen, March 30, 18^4. Therefore, it remained to be decided whether the proposed contract was useful. The Bishop considered the contract useful, having considered the small value of the building; however, there might be difficulty in it.

[*Latin ed. p. 202*]

TRANSLATION AND EMPTEUSIS 20, concerning whether a perpetual emphyteusis is permissible; especially, since even with regard to other goods which had long been granted in temporary emphyteusis, a prolongation was sought. Regarding this matter, it is noted that, although the Apostolic Beneplacitum for a perpetual emphyteusis was not always granted in past centuries, in more recent times, the Holy Congregation has not infrequently departed from such practice. Finally, in the present matter, it is necessary to obtain a dispensation from the formalities prescribed in contracts concerning Church property. With these considerations, the proposed questions are to be resolved: I. "Is there a place for profanation of the church in question, and II. Respectively, for the translation of the title of the benefice with its annexed burdens in this case?"

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RESOLUTION. The Holy Congregation of the Council, having knowledge of the matter discussed in the meetings held on June 22, 1861, decided to respond as follows: To I. Affirmative in all respects, provided that the prescriptions of the Holy Council of Trent, session 21, chapter 7, concerning appeals, are observed. To II. Deferred, and it is to be inquired of the Most Reverend Ordinary regarding the approval of the proposed emphyteusis in this case.

PROCEEDINGS OF THE CAUSE ACCORDING TO RIGHTS. The cause was again presented on August 31, 1861, at which time, from the report of the new Ordinary, it was learned that among the goods to be transferred in emphyteusis was also a certain small area, which Lawrence G. currently held under a lease agreement; however, it was not declared specifically whether the transfer of the emphyteusis from the family P. to the family G. was legitimate; therefore, the Holy Congregation again responded: Deferred, and write again to the Ordinary, taking into account the quality and nature of the emphyteusis, and more precisely, regarding the newly presented information, and especially regarding the legitimate transfer of the emphyteusis from P..... to G.....

The question was again discussed in the Congregation on August 27, 1864, and for almost the same reason, the Holy Congregation responded:

[*Latin ed. p. 203*]

TRANSLATION AND EMPTHEFT 203: Those who are interested in the matter should be informed (1). In accordance with this decree, the Ordinary declared the following among other things: "In the emphyteusis of which we are speaking, it is possible that those of the family of P. may have an interest, without anything being omitted so that all of them may be heard, from whom it was clearly and uniformly declared, only by word, that they are not the heirs of Dominic P., but rather that they care nothing about such an emphyteutic contract." Therefore, the case was presented again on September 4, 1869, and the Sacred Congregation, after considering the matter, issued the following decree: "Affirmatively, regarding the emphyteusis lasting for ninety-nine years, after the completion of the twentieth and sixth experiments, and with the assumption of the burden of troubles that might be caused by the descendants of P. From which it may be gathered: I. That non-parochial churches, which are located in hidden places, and which are so dilapidated that they cannot be restored for long, nor are they useful to the faithful people, can be converted to secular uses, provided they are not sordid (2). II. Therefore, churches that have been profaned by episcopal authority can come into the commerce of men, since they cease to be sacred (3). III. It is also fitting that the value or emolument of the land and materials be converted to the benefit of the benefices that may exist therein (4), and also to another church or chapel (1) Those who do not know the Italian language or a similar language, nor are accustomed

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to using the language of the Curia, will only understand these words by inference, and in the Curia, the term "those who are interested" is limited to those for whom it is of concern. How such modes of expression have been and are introduced into such formulas, I have explained in vol. I, p. 447, in a note. (2) See similar cases that I have explained in vol. II, p. 461 and following, and in vol. III, p. 421 and following. (3) If a comparison is made between Roman law and canon law regarding the prohibition of using temples and places sacred to God for secular purposes, it becomes clear that canon law is much milder than Roman law. However, in ancient times, before the decrees of the Council of Trent in the aforementioned chapter 7, session 21, concerning Reforms, since there were no explicit decrees of canon law on this matter, interpreters of the canons, with the decrees of Roman law before their eyes, easily exceeded the bounds in this matter, as did the Glossa, which I cited above in the note. (4) In the case of Ariminen, concerning the demolition and removal, which was discussed in the Sacred Congregation on April 5, 1788, there was a question of a chapel under legal patronage that was to be demolished for similar reasons as those mentioned above, and in

[*Latin ed. p. 204*]

TRANSLATIONIS ET EMPHYTEUSIS transferenda sunt cum iisdem titulis, oneribus, sacrisque pietatis christianae monumentis. IV. Colliges praeterea, contractum emphyteuticum rerum ecclesiae ex temporaneo perpetuum non reddi ab Apostolica Sede, nisi de evidenti utilitate huius perpetuae alienationis constet. V. Neque Beneplacitum Apostolicum, in alienatione rerum Ecclesiae necessarium, concedi solere, nisi solemnitates praescriptae expleantur (1). eo erectum reperiebatur Beneficium, et ad instantiam "Patroni quaerentis demolitionem et translationem propositis dubiis : I. « An sit locus demolitionis Oratorii SS.mi Crucifixi in " casu: et quatenus affirmative: II. An " sit locus translationi Missarum ad " aliud Oratorium S. Bartholomaei " vel potius ad ecclesiam S. Io. Baptistae in casu. » S. Congregatio ré- pondit: ad I. affirmative: ad II. affirmative ad primam partem, negative ad secundam iuxta votum Episcopi; et ad mentem: nempe quod coementa cedant favore Beneficii. (1) De hisce solemnitatibus non nulla scripsi, ac Decreta alias in bis ephemeridibus adducta ad rem facientia indicavi occasione causae, quam exposui in vol. II. pag. 418 et seqq.

Translations and emphyteuses must be transferred with the same titles, burdens, and sacred monuments of Christian piety. IV. Furthermore, you should understand that an emphyteutical contract concerning Church property, originally of a temporary nature, is not made perpetual by the Apostolic See, unless there is clear evidence of the benefit of this perpetual alienation. V. Neither is the Apostolic Approval, which is necessary in the alienation of Church property, usually granted, unless the prescribed

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formalities are fulfilled (1). In this matter, a Benefice was established, and at the request of the "Patron" inquiring about the demolition and transfer, the following doubts were raised: I. "Whether there is a place for the demolition of the Oratory of the Holy Cross in this case; and, to the extent that it is affirmative: II. Whether "there is a place for the transfer of Masses to "another Oratory of St. Bartholomew "or rather, to the church of St. John the Baptist in this case." The Holy Congregation responded: to I, affirmative; to II, affirmative regarding the first part, negative regarding the second, according to the opinion of the Bishop; and with the understanding: namely, that the expenses should be borne favorably by the Benefice. (1) Regarding these formalities, I have written something, and I have indicated Decrees in these ephemerides that are relevant to the matter, on the occasion of the case that I explained in vol. II, page 418 and following.

[*Latin ed. p. 205*]

CONCERNING THE REMOVAL OF THE ADMINISTRATOR AND THE ERECTION OF A CANONICAL OFFICE. July 31st and August 21st, 1869. Summary of the case. Nicholas, having made a will in the year 1859, designated his mother as the usufructuary of all his goods, and after her death, he ordered that the entire inheritance should be administered by Philip, his brother-in-law, with the instruction to acquire full ownership of a certain hereditary house and to give to his own brother, the testator's brother, the portion of the inheritance already due to him; furthermore, he commanded the aforementioned administrator to erect a canonical office in the cathedral church from the remaining inheritance, which should be held by Leopold, a cleric, son of the aforementioned Philip, the administrator. In the year 1865, the testator, being of unsound mind, died, and his mother had already predeceased him. Therefore, Philip A. undertook the duty of administering the inheritance, and it appeared that the revenues and assets of the inheritance consisted of a tenurial house, which yielded an annual rent of 430 scudi; also, 300 scudi from the lease of a certain garden; and in some movable goods belonging to the testator or his residence; but these revenues and assets were burdened by certain obligations or debts, namely, the payment of a canon for the aforementioned tenurial house of 55 scudi; 1000 scudi owed to the testator's brother; a debt of 1040 scudi owed to a certain creditor, Mr. S., which had been contracted after the will was made, at a time when the testator was suffering from dementia; and finally, expenses for taxes, levies, and repairs, amounting to 43 scudi. Many questions arose from this, either concerning the invalidation of the testator's will or concerning the claiming of a portion of the inheritance; however, these ceased with a negative response from the Sacred Congregation. But in the year 1868, the civil court of commerce judged the administrator, Philip, in his family

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affairs, and it was made known that the aforementioned administrator was obligated to pay the present pious cause 203 scudi. The cathedral chapter, from its own resources, requested the Sacred Congregation to remove the aforementioned administrator, to sell the aforementioned hereditary house in order to extinguish a debt of 1400 scudi, and to invest the remaining sum in government bonds, commonly known as "Consolidato," for the benefit of the cathedral.

[*Latin ed. p. 206*]

206 CONCERNING THE ADMINISTRATION, ETC. By erecting a new office: and so that revenues might be sufficient, another benefice would also be established. Philip opposed these proposals. When asked about these matters, the Bishop testified to several things, because of which he considered the administration's management to be very poor; therefore, the administrator, already worn out, should be removed; and he supported the Chapter's petition to sell the useful property of the aforementioned charitable house in order to establish a canonry as quickly as possible; and he proposed several other things, which he considered useful for pious causes. As is customary, when a decree is issued, it is placed on the page so that the matter may be discussed in the full Congregation; then, the parties involved constituted two groups, who prepared questions to ask each other, which are given below, and presented their arguments. A SYNOPTIC DISCUSSION: DEFENSE OF THE CHAPTER. The Chapter's defender argued that Philip should be removed from the administration of the charitable assets, citing the passage in chapter *Tua nobis*, concerning testaments, in which Gregory IX wrote: "Tua nobis" informed us that some, both religious and secular clergy, and lay people, who are supposed to expend money and other goods, which, through their hands, should be used for pious purposes from the testaments of the deceased, do not hesitate to apply them to other uses. Therefore, since it is the duty of the local bishops to ensure that, in all pious intentions, everything proceeds according to the will of the deceased, even if it were possible to forbid this from the testators themselves; we command that the executors of such testaments be warned, with a prior admonition, to expend those goods faithfully and fully for the aforementioned purposes: "and in chapter *S* and 9 of session 21 of the Council of Trent, concerning reforms. From this, it is clear that bishops, with legitimate reasons, can suspend or remove administrators from the exercise of their administration, just as guardians of orphans and curators of minors are removed, since, according to Clement, in chapter *Quia contingit*, §, the causes of charitable institutions are equivalent to the causes of orphans and minors. Furthermore, legitimate reasons for removing guardians are found in the passage in I. 3 §. 5 ff. concerning suspected guardians, in which it is written about guardians or curators who

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are suspected: "It must be known that..."

[*Latin ed. p. 207*]

REMOVAL OF THE ADMINISTRATOR, ETC. 207. It is permissible to demand an accounting from the administrator in Tulle, if he has appropriated funds, or has acted dishonestly to the detriment of the ward, or has taken anything from the ward's property, even if he is the ward's tutor. This is also stated more clearly in I. 4 §. 4 ff. of the same title, where it is read: "Those who have done nothing cannot be demanded to give an accounting, but if, through laziness or negligence, or through deceit, they have acted deceitfully, they can be removed." Relying on these legal principles, the Defender argued that all the reasons for removing Philip from the administration were based on three reports presented to the court in various investigations; from these, he sought to demonstrate the poor quality of his administration, both due to usurpations, due to a breach of trust, due to negligence, and finally, due to his lack of suitability. And finally, as if to crown these matters, he mentioned the silver that had been melted down: and he concluded that it was improper for those who are known to need the help of others in managing their affairs, and are governed by others, to undertake the guardianship or care of others, citing the relevant text in the Institutes §. 13, concerning excused tutors.

Having made these observations regarding the first point, he proceeded to the second, and sought to demonstrate that the cathedral church, of which we are speaking, was in need of a sufficient number of canons, and that the testator's will required the prompt establishment of a canonry. For the testator's will was that, upon the extinction of a debt of 1000 scudi owed to his brother, and upon the consolidation of the useful dominion of the house with the direct dominion, a canonry should be established immediately. Therefore, the Defender pointed out that both conditions had almost been met, since the brother, as creditor, had succeeded in the lease and management of the garden; however, the consolidation of the useful dominion with the direct dominion should be considered as not having occurred, due to the reluctance of the direct lord, who was unwilling to cede the direct dominion, and therefore the condition had proved impossible, and therefore, according to the text in the Institutes, de heredes instit., §. 10, "An impossible condition in institutions and legacies, as well as in trusts and freedoms, is considered as not written."

Furthermore, the Defender pointed out that if the extinction of another debt of 1400 scudi owed to the Reverend Father had not occurred, such an extinction had not been prescribed by the testator, since this debt had arisen after the will had been completed. And furthermore, the Defender indicated a certain way in which the canonry could be established imme-

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diately.

[*Latin ed. p. 208*]

208 REMOVAL OF THE ADMINISTRATOR, ETC., and the gradual extinction of this debt: in such a way that the proposed new Canon would, each month, contribute the sum of 14 scudi. And another proposal was made, which the Chapter had proposed. Therefore, having considered these and other matters, a proposal was made in the Congregation on July 31, 1869; but since one party requested a delay, in order to present their claims, the Sacred Congregation, granting the request, responded: "Grant the delay until the following [month], absolutely and without fail."

THE PROCEEDINGS, OR THE DEFENSE OF THE ADMINISTRATOR. The defender of the administrator readily conceded that the erection of a Canonry should take place as soon as possible; however, he maintained that there was no reason now to consider the debt owed to the aforementioned person, which had been contracted by the curator during the testator's period of dementia, after the will had already been made. He argued that this debt should be the responsibility of the same Canon who would be instituted in the Canonry; and that the erection of the Canonry should not be confused with the future administration. However, if it were deemed sufficient to satisfy this debt at this time, he added that approval should not be given to the Chapter's proposal to sell the emphyteutical property in order to extinguish said debt and to invest the remainder in public debt securities. He rejected such a method of investment in public debt securities as being uncanonical. For, he observed, although such an investment might seem safe in principle, the income could increase or decrease, according to the whims of the market. Therefore, he emphasized that the method prescribed by the Holy Canons, and widely adopted by the Holy See, was to invest ecclesiastical goods in stable, safe, and productive assets; and to admit investment in public debt securities only as a last resort. Furthermore, he stated that, in extreme cases, investment in public debt securities could only be permitted with a special dispensation obtained from the Holy Father, and that, even then, it should be done in nominal securities, excluding those that are not nominal, which are called "al portatore" in Italian. Therefore, it was unreasonable to sell a stable and good property, and to obtain income that would only be permitted as a last resort for investment. Moreover, he insisted that this was even more important, because the property in question was one to which an obligation for the celebration of Masses had been attached by the will; in this regard, the defender recalled the solemn decrees of Urban VIII and Innocent XII, issued on June 21, 1625, in which...

[*Latin ed. p. 209*]

§ 6. "Furthermore, in order that Priests, in parishes where the burden

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of perpetual Masses has been imposed, may not become lukewarm and negligent in fulfilling this duty, since such obligations are joined with no, or very little, benefit, it is decreed that sums of money and movable goods acquired by churches, capitularies, colleges, hospitals, societies, congregations, monasteries, convents, and all secular and regular places, and by the persons belonging to them, in the future, simply, with the perpetual burden of celebrating Masses by those to whom they belong, under the penalty of interdict from entering the Church, incurred immediately upon the actual acquisition, must be deposited in the sacred building, or with a person of suitable faith and ability, so that the same, or their equivalent, may be invested as soon as possible in profitable immovable property, with express and individual mention of the burden attached to them."

§ 7. "And if the same immovable property should subsequently be alienated by Apostolic authority, the same sum must be deposited under the same penalty, as above, and converted into other stable and equally profitable property, with the same repetition and attachment of the burden."

This is all the more relevant in the present matter, since the testator, establishing the canonry for this house, so preferred it that he also wished to be freed from the annual payment due to the direct lord, so that the property would remain entirely for the canonry. Hence, his defender proposed a method for extinguishing the debt, by which, if followed, the new canon would have a monthly allowance of 10 shillings and 37 pence. He emphasized this method even more, because it was necessary to ensure that the administrator's family, whom the testator favored in every way, would benefit in some way from the institution of his son in the canonry.

After these observations, noting that the initial formula of doubt no longer applied with the erection of the canonry, he proceeded to demonstrate, with supporting documents, that Philip had performed the duties of administrator well. After these and other extensive discussions, the matters at hand are to be resolved. Minutes, volume F, page LIT. 14.

[*Latin ed. p. 210*]

210. REGARDING THE REMOVAL OF AN ADMINISTRATOR, ETC. Doubts. I. "Is there a place for the removal of the administrator in this case?" II. "Is there, and in what manner, a place for the erection of the Canonry of which mention is made in this case?" RESOLUTION. The Holy Congregation of the Council, having knowledge of the matter on August 1, 1869, judged it fitting to respond as follows: To I. Provision will be made in the second [point]. To II. Affirmative, according to the following manner: The manner is that a Canonry should be erected immediately according to the form of a testament, and once the Canonry has been provisionally established according to law, twelve scudi should be assigned to the new Canon each month, including the expenses of the Masses; furthermore, the Bishops, through an ecclesiastical person appointed as administrator, should

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take care, in the best way possible, to remove the foreign funds by which the endowment is burdened, with a provisional decree from the Bishop, after consultation with the Holy See; and moreover. FROM WHICH YOU MAY GATHER: I. That the administrator of goods left for a pious cause must be subject to the vigilance of the Bishop, who, by law, is the executor and avenger of all pious intentions (1). II. That a negligent or inexperienced administrator, even if appointed by the testator, can be removed by the Bishop from the office of administration, if it is established that his negligence and inexperience are grave. III. That the condition of goods which are immediately left under an administrator for a pious cause is no different from the condition of goods which are under a curator. IV. Therefore, the same causes which would rightly remove a curator can also remove an administrator of goods destined for a pious cause. V. Furthermore, you may gather, in the opinion of the Church, that the purchase of revenues, from whatever source they may come, is not a canonical or proper investment, since a true investment consists in the placement of capital in stable and productive assets. (1) *Recolligé* [The word "Recolligé" is written in 1 eo, ff, ircf. 3-ifJ cf sc¡q.]

[*Latin ed. p. 211*]

REMOVAL OF THE ADMINISTRATOR, ETC. 211 VI. Wherefore, the acquisition of revenues, which are derived from a fixed, determined, and defined source, and which are called censuses, does not, by itself, take the place of the first and true canonical investiture, but only as a subsidiary, that is, in the absence of the proper and canonical investiture (1). VII. Only in the third and last place is it permissible, with the permission of the Apostolic See, according to the circumstances of the case, to have an investiture which consists in the purchase of fruits derived from public debt. VIII. In the present case, no such investiture has taken place, since neither necessity required the sale of a stable property and its fruits, nor did any evident canonical utility demand it, nor did the will of the testator seem to permit it. (1) Compare what the Reverend Aloisitis Trombetta wrote in a recently published work, entitled "Rules of Practice Concerning Contracts of Ecclesiastical Matters," in which the author sets forth the norms to be observed or prescribed by the Sacred Congregation and the Regulations.

[*Latin ed. p. 212*]

CHAPLAINCIES. On June 13th, August 29th, 1868, and January 23rd, 1869. Summary of the facts. Salvator P. established a chaplaincy in a certain temple in the town of N; in his will, in the year 1685, he assigned an endowment of 800 guilders, so that two chaplains might serve the same chaplaincy and enjoy the fruits of that endowment. The same pious founder chose two chaplains, namely, John Sergii, son of Virginia, and Dominic Sergii, son of Lavinia, who was the founder's niece. Then he enacted a

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law, by which the right of patronage, whether active or passive, of said chaplaincy should be governed, in these words: "As long as descendants exist from the house of Lavinia, Virginia, and Artemisia, or from the part of Cecilia G., my sister, or her heirs, they shall have the power to choose removable chaplains, and not otherwise; and if more clerics or priests are found in these two families, they shall always be named first, so that, if they are clerics, they may also be ordained to the title of chaplain." In the testamentary documents, in the year 1686, after a slight change, the same testator decreed "that the nomination must be made by the descendants of the house of Cecilia G., my sister, and Lavinia Sergii, my niece, or by descendants through the male line; but if these do not exist, those from the female line shall have such a choice, and if descendants appear in the male line, such a choice shall revert to these, and so it shall always proceed; but the permanent chaplains shall always be those who are first from the male line, if there are priests or clerics; otherwise, removable chaplains shall be named as above, until a descendant appears." After the testator's death, both Cecilia G. and Lavinia Sergia petitioned the Bishop, requesting that the right of patronage be granted to them, and that bulls of appointment be issued for those first named by the testator. The Bishop granted their prayers, and on March 14th, in the year 1687, he decreed: "Let it be known to all... that today a petition was presented, which contains that Salvator P. established... and provided..."

[*Latin ed. p. 213*]

CHAPTER 213: "He bequeathed for her dowry 800 scudi in Uzes, and ordered that the absolute fruits of said 800 scudi should belong to, and ought to belong to, in equal portions, to the cleric John, son of Anthony Sergius, and Dominic, son of Sulpitius Sergius, whom he named and presented as perpetual chaplains of said chaplaincy, in the aforementioned will and codicil; and upon the death of these, those who are presented by the descendants of Lavinia and Cecilia, coming from the male line, if they are present; but if not, those coming from the female line (but only when males are present), whom he always and perpetually wished to be preferred in such a right of patronage, to whom he granted the faculty of presenting to the same chaplaincy as many times as a vacancy occurs, the first priests or clerics from said families as perpetual chaplains; otherwise, if these are lacking, removable chaplains are to be chosen at the will [of the patron], as long as priests or clerics are present in said families. And therefore, since the assignment has already been made by the heirs, we are willing to grant the concession of this right of patronage and the right of presentation, with all and singular rights... and also the Papal Bulls of collation of the same chaplaincy to said clerics... We therefore, approving of such wishes and prayers... by the ordinary authority with which we are endowed, agreeing to the concession and foundation of the chaplaincy...

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maintaining the aforementioned disposition, erection, and endowment, we grant, with full power, the letters of presentation of chaplains... and we command that the Papal Bulls of collation of this chaplaincy be issued to the aforementioned clerics... etc."

On the same day, March 14th, the Bishop granted half of the chaplaincy to John Sergius by a Bull, and then, on April 7th, he granted the other half to Dominic Sergius by a Bull. In the year 1858, when the chaplaincy became vacant, Anthony Sergius, considering the chaplaincy to be merely a lay possession, took complete possession of it himself and retained it, although he was a cleric, but for many years he had not worn the habit or tonsure. Angelus Sergius, deeply grieved by this, after being initiated into the priesthood, made humble prayers to the Most Holy Father, explaining that, as a priest and a descendant of the Sergius line, favored by the founder, he was called to possess the chaplaincy; and therefore, he petitioned that Anthony, the illegitimate holder, be removed, and that he be rightfully admitted into possession of the chaplaincy.

[*Latin ed. p. 214*]

214. Regarding the Chaplaincy: A certain Peter, Archpriest, in the same town, presented prayers and asserted to the Most Holy Congregation that, according to the will of the Founder, he himself was also passively called to the said chaplaincy; indeed, that he, being closer to the Founder and older in the order of the priesthood than the others, should be preferred. The Bishop, to whom the prayers were sent for information and consideration, among other things, stated that the chaplaincy was an ecclesiastical benefice, and that it had always been enjoyed by a chosen line, both actively and passively. He further stated that the priest Angelus Sergius descended from the male line favored by the testator, while on his mother's side he descended from the female line; that Peter, the Archpriest, descended from the female line; and that the stipend of Antonius Sergius, who, as I said, held the entire chaplaincy, was not known, so that his connection with the favored line could not be proven; and that he had not worn the habit and tonsure for many years. He considered that, since there should be two chaplains, the first should be the priest Angelus, and the second, Peter, the Archpriest. After these events, at the order of the Most Holy Congregation, the Bishop published edicts, and three other clerics, descended from the Sergius line, and those who called themselves patrons, appeared before the episcopal court; and other patrons also appeared, giving their support to the aforementioned priest Angelus. The Bishop submitted everything to the Most Holy Congregation.

Summary of the Dispute:

DEFENSE OF ANTONIUS SERGIUS. Antonius argued that he rightfully possessed the chaplaincy, since he descended from the male line of the Sergius family, and because he bore the same name, and because the chap-

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laincy was a lay benefice. He sought to demonstrate that the chaplaincy was a lay benefice, based on the fact that the founder had established it as a removable benefice; and that removability was not compatible with ecclesiastical benefices, which by their very nature should be perpetual. He also argued that there was no reason to give weight to the episcopal decree, which I mentioned above, and to the subsequent episcopal regulations: although the episcopal decree of erection does indeed have a place in the erection of ecclesiastical benefices; yet, in the case at hand, we do not read the customary phrase "we erect, etc." And if...

[*Latin ed. p. 215*]

CHAPLAINCIES 215. He desired, with all his heart, that it should be demonstrated, but he maintained that such decrees could not pervert the will of the founders; nor was it lawful for a Bishop to erect a lay chaplaincy into a benefice; Corradus in *Praxis Beneficiorum*, I, 2, chapter 16, number 145, Pitonius *De Controversiis Patronorum*, allegation 33, number 87, and others, generally. Moreover, it could not be harmful if the contrary observance were merely asserted and not proven; and even if it were proven, nothing could be inferred, since it derived from an arbitrary act contrary to the will of the founder. Furthermore, it was clear to no one that such lay chaplaincies were not rightly subject to the jurisdiction of benefices, but to the jurisdiction of inheritances, according to the laws of entail, with the reservation of the Bishop's right to oversee the fulfillment of obligations; and that they should also be considered as mere pious legacies, as the authors generally state. Therefore, he concluded that he had lawfully acquired possession of the chaplaincy by a simple mandate, and that he could retain it even if he did not proceed in a clerical manner.

ARGUMENTS PRESENTED AGAINST ANTONIUS. On the contrary, it was pointed out that the chaplaincy appeared to be ecclesiastical: For a chaplaincy is usually considered ecclesiastical if these signs are present: that it has a special endowment, a proper title, its own altar, a certain obligation of Masses, and is subject to the Bishop and his visitation, as is evident from the Holy Rota in *Papien. Beneficii*, January 28, 1754, §. Before Borul. These signs are present in the chaplaincy in question. Nor does its removability obstruct its being ecclesiastical, since it is perpetual in its nature, which is sufficient for the character of an ecclesiastical chaplaincy, as Barbosa *Iuris Ecclesiastici Universi*, I-3, chapter 4, page 2, number 7, and others, state. Furthermore, in the present case, the episcopal decree of erection is present, in which, although the word "erect" may not be found, equivalent words are present, such as: "with ordinary authority, with which we act, we consent to the foundation of the chaplaincy... we grant the right of patronage... we grant the power to present chaplains... we order that letters of collation be issued." Finally, the very collation, or episcopal institution, in the chaplaincy is demonstrated by papal bulls, showing

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it to be ecclesiastical, as is generally noted in the causes of the Holy See. The Bishop, however, testified by means of episcopal bulls that he had canonically instituted him in the chaplaincy in question, from which the same Bishop argued that it was ecclesiastical.

[*Latin ed. p. 216*]

216. OF ECCLESIASTICAL BENEFICES. After these matters were discussed, it was determined who of those presented should receive the ecclesiastical benefice; we omit the troublesome and unprofitable question concerning this.

I. Question: Does the "legitimate possession" of the ecclesiastical benefice favor Anthony Sergius in this case? And to what extent?

II. Question: In what manner, and by whose favor, should the ecclesiastical benefice be granted in this case?

Answer: The Sacred Congregation of the Council, on June 13, 1868, issued a Resolution to the following Congregation, according to the customary formula: "Deferred to the following session."

In accordance with this mandate, the case was presented again on July 18 of the following year; but since new documents were presented on the preceding day, the response was again: "Deferred to the following session," taking into account the new documents.

PROCEEDINGS OF THE CASE. The new documents presented showed the following: namely, that two chaplains had always possessed the ecclesiastical benefice; that, at least in recent times, the chaplains had not acquired possession of it through an episcopal institution, that is, through Bulls duly issued; but that they had acquired possession through the very fact itself, or rather, through a certain mandate of the Curia; that before the year 1842, two chaplains were from the Sergius family, of whom one was a cleric, who, having fulfilled the obligations of the ecclesiastical benefice, received a stipend from it; that Anthony Sergius, of whom we are speaking, obtained the first part of the ecclesiastical benefice in 1846 through a cession, which he made to him by his uncle, who was then the possessor of the ecclesiastical benefice; that he obtained it through a certain agreement, which would certainly have been simoniacal, if the ecclesiastical benefice were ecclesiastical; and that he retained it, even though he acted as a layman; that after the death of the second chaplain, his brother, Anthony succeeded him and obtained the other part of the ecclesiastical benefice through a simple mandate of the Curia, and therefore, until now, has possessed the entire ecclesiastical benefice. Furthermore, while this case was pending before the Sacred Congregation, another member of the Sergius family presented himself, who requested the ecclesiastical benefice as a passive petitioner; and another, who asserted himself as a patron, and offered his support to Anthony Sergius. Therefore, new arguments were presented on both sides,

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which confirmed or more fully explained those which I have stated above.

[*Latin ed. p. 217*]

CHAPTER 217. Concerning Anthony. It was observed that, given the ecclesiastical nature of the chaplaincy, Anthony could not retain it, since he had not obtained it through canonical institution; indeed, he had also obtained the initial portion of the chaplaincy through a simoniacal agreement; and therefore, he could not retain it. Furthermore, it was also argued that the chaplaincy was a lay chaplaincy, and since this type of institution required either a priestly or clerical quality, Anthony could not possess it, since he conducted himself as a layman in all things. Neither did the tonsure, which he had received many years ago, benefit Anthony, since, through a voluntary abandonment of his habit, he was considered to have renounced all rights; nor had he declared, in the records of the Curia, that he intended to resume his habit; and therefore, he had incurred the penalty imposed by Sixtus V through the Constitution *Cum Sacrosanctum*. In response to these arguments, Anthony first contended that the chaplaincy was a lay chaplaincy, as stated above in the first proposition of the cause; then he stated that he was a cleric, and that he could resume his clerical habit whenever he saw fit; however, he was not bound to do so, since the founder had not prescribed that a clerical chaplain should wear the clerical habit; nor was he bound to do so by common law, since the penalty of deprivation has force only against those who possess ecclesiastical benefices or ecclesiastical pensions, but not against those who possess lay chaplaincies, as noted by Cirdan in *Adnotationes ad Concilium Tridentinum*, section 24, paragraph 10, where he wrote: "Benefices are brought under this heading only insofar as they are truly and legally such; because, indeed, those that are founded with Apostolic or Ordinary authority, or with that of another ecclesiastical superior who has sufficient power for that purpose, are legitimately established and maintained, observing the due observances; otherwise, when we speak of 'chaplains manualibus,' or of pious legacies founded solely on a private disposition, even though with the obligation of celebrating Masses, which can be properly fulfilled by substitutes, so that the formal foundation or erection does not apply; because chaplains of this kind and pious legates can also be women and children." Furthermore, Anthony pointed out that canonical equity did not allow anyone to be deprived of a clerical privilege without any formal warning; nor could the disposition of Sixtus V be invoked, since...

[*Latin ed. p. 218*]

Concerning these matters, let us speak of clerics who enjoy a benefice or ecclesiastical pension; and then, that Benedict XIII tempered the rigor of this disposition through a Constitution, which begins: *In supremo*, published on October 1, 1724. Therefore, after the aforementioned questions

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were again raised in a meeting held on August 29, 1869, the Sacred Congregation responded: To the first question, negatively, concerning one of the chaplaincies; and furthermore, concerning the other, a decision should be deferred, considering the good of all parties, and Anthony should be instructed concerning the resumption of his clerical habit, with an administrator appointed by the Bishop to manage the goods of both chaplaincies in the meantime. To the second question, the patrons should exercise their rights before the Bishop concerning the nomination of the vacant chaplaincy. Since Anthony was excluded from one of the chaplaincies, while the other remained under consideration; and since he appeared to have no further interest in the matter, the case was reopened at the request of others, with the following questions: Question I. "Does a legitimate possession of the other chaplaincy exist, in the case of (Anthony Sergi)?" Question II. "In what manner, and with what conditions, should the chaplaincy be granted in this case, etc.?" RESOLUTION. The Sacred Congregation of the Council, having again examined the case on January 23, 1869, decided to respond: To the first question, negatively. To the second question, the patrons should exercise their rights concerning the nomination of the chaplaincy. FROM WHICH WE GATHER: I. That lay and ecclesiastical chaplaincies, differing greatly among themselves (1), produce various legal effects. II. That lay chaplaincies are almost entirely governed by the law established by the founder. III. That they can also be held by laypersons, if the founder's will permits. IV. That, if the founder prescribes that a chaplaincy must be held by a cleric, then only a cleric who is capable of holding it may do so. (1) In these publications, there have been several opportunities to explain the difference between lay and ecclesiastical chaplaincies; therefore, see the indices of the volumes under the word "Chaplaincy"; as well as what I wrote in Volume 1, pages 631 and following.

[*Latin ed. p. 219*]

CHAPTER 219.

V. The name "Cleric" should be used, so that at least in these matters, he may be understood to be one who, having received the tonsure, wears the clerical habit and tonsure (1).

VI. In the present case, the question of whether the chaplaincy is ecclesiastical or lay (2) does not seem to be resolved.

VII. However, in either hypothesis, it appears that Anthony could not have retained the chaplaincy, which the cleric should at least possess, since he has long since relinquished the clerical habit without intending to resume it. The privileges of the forum and canon, as well as those of the head, Odardus, can no longer be invoked by those lesser clerics who have abandoned the habit and tonsure, after the Decree of the Most Holy Lord,

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which I explained in Volume III, page 433. The reasons for that Decree are given there on pages 443 and following. That Decree, although issued for the Papal jurisdiction, may nevertheless also be applicable to other jurisdictions if it is necessary. I say "if it is necessary," because, with the already established custom, the privileges of clerics in other jurisdictions are scarcely, and indeed hardly at all, considered (although through great injustice) to apply to those who are established in the sacred orders; much less so to lesser clerics who have abandoned the clerical habit. But the privileges of clerics, which relate to the order and ecclesiastical hierarchy by reason of immunity, should not be confused with the clerical status required to hold ecclesiastical benefices; nor should the clerical status derived from common law for holding such benefices be confused with the clerical status prescribed by the founder for holding lay chaplaincies. Although the same status is involved, when considered in its origin, it does not produce the same effects: thus, for example, a cleric who holds a benefice, if he abandons the clerical habit, loses the benefice by law itself, although a declaratory judgment of a judge is required (on this matter, see the case I cited in Volume IV, pages 378 and following, and the Constitutions added there on pages 394 and following), which is not the case with lay chaplaincies, since these are governed primarily by the law of their foundation.

(2) From the documents presented, it seems to me that it cannot be certainly determined whether the chaplaincy is ecclesiastical or lay; for the Decree of erection, issued by the curia at the request of the women, seems to be a safe argument in the present case for judging it to be ecclesiastical; for, considering the nature of the law of foundation, the chaplaincy appears rather to be lay; nor, on the contrary, do the documents presented prove that it has been consistently considered to be ecclesiastical afterwards; indeed, considering the most recent acts of possession, it should be considered to be lay. From the answers given by the S.C., it cannot be argued that the S. Congregation judged the nature of the chaplaincy. See on this matter the case I presented in Volume II, pages 323 and following, in which a similar argument is discussed.

[*Latin ed. p. 220*]

LETTER FROM THE MOST HOLY FATHER, HENRY, ARCHBISHOP OF WESTMINSTER, DATED OCTOBER 30, 1869, TO PIUS PP. MANNING, CONCERNING THE FAITH OF THE DISSIDENTS. IX

"To the Venerable Brother, Henry Edward, Archbishop of Westminster.

"Venerable Brother, Greetings and Apostolic Benediction.

"Since, in the letters addressed to you, Venerable Brother, dated September 4th of the past year (1), we stated that those things which have already been explained and judged by the Ecumenical Council should not be called into doubt, and that therefore no place can be given to the patronage of condemned errors in the new Council, and that for this reason we could not

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invite non-Catholics to debate, we have learned that some of the dissenters have understood these words in such a way that they believe that all means of presenting the difficulties that hold them back from joining the Catholic ranks are closed to them, and that they almost consider that access to Us is denied.

"Indeed, We, although unworthy, fulfilling the role on earth of Him who came to save that which was lost, are repelled by them in every way, whereas we should spontaneously approach them, and desire nothing more fervently than to be able to extend our arms in a paternal manner to those who return. And certainly, we have never intended to indicate to them that we would remain silent, who, deceived by a false doctrine, and believing that they are correct, believe that their dissent is founded on valid arguments, which, for this reason, wise and prudent men should seriously examine.

"(1) You have these letters above, on page..."

[*Latin ed. p. 221*]

LETTER OF THE MOST HOLY FATHER, ETC. 221 It cannot be accomplished in a Council, but learned men, experts in divine matters, whom We shall designate, will not be lacking, to whom they may open their minds and expound all the points of reason, confidently expressing their opinions, so that, through the very discussion, instituted solely for the pursuit of truth, they may be enlightened with a fuller light, by which they may be led to that truth. "May many propose this to themselves and carry it out with good faith; for it cannot happen without great benefit to themselves and to others. Indeed, for themselves, because God will show His face to those who seek Him with all their heart, and will grant them what they desire. And for others, both because the example of outstanding men will not fail to be effective, and also because those who have gained the benefit of truth with greater diligence and labor will strive with equal zeal to extend that same benefit to others. While we earnestly ask for this most blessed outcome from divine clemency, receive, Venerable Brother, the Apostolic Benediction, which, as a sign of heavenly favor and a prime pledge of Our benevolence, We impart to you and to your entire diocese with paternal affection. "Given in Rome, at St. Peter's, on the 30th of October, in the 24th year of Our Pontificate. "Pius IX, Pope."

[*Latin ed. p. 222*]

FROM THE SECRETARY, A SHORT APOSTOLIC LETTER GRANTING INCREASED INDULGENCES, CONTAINING CERTAIN PRAYERS IN HONOR OF ST. ANDREA AVELLINI. POPE PIUS IX. "For the perpetual memory of the matter. The devoted son, Francis Mary Cirino, cleric of the Regular Congregation of the Theatines, now called 'General Vicar,' has presented to Us certain prayers in honor of St. Andrea Avellini, the

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beginning of which is: "Most glorious Saint, whom God has appointed as Protector against apoplexy, having yourself been struck by a mortal stroke, we implore you instantly to preserve us from such a dangerous and frequent evil." (1) "Our Father, Hail Mary, and Glory be." For the intercession of St. Andrea, may we be delivered from the disease of apoplexy; and from sudden and unexpected death, O Lord. "Most glorious Saint, should we, by the just judgments of God, be struck by some apoplectic affliction, we implore you instantly to obtain for us at least the time to be able to receive the Holy Sacraments and to die in the grace of God." (9) "Our Father, Hail Mary, and Glory be," and the rest as above. "Most glorious Saint, who, before your death, suffered a fierce agony from the assaults of the demon, from which you were freed by the Blessed Virgin and St. Michael the Archangel, we implore you instantly to assist us in the terrible moment of our death." (3) "Our Father," and the rest as above. The same devoted son also earnestly requested Us to deign to graciously increase the number of these heavenly benefits, the dispensation of which the Most High has entrusted to Us. Therefore, We, to St. Aull) Holy and most glorious one, who were given by God as Protector against apoplectic diseases, and since you yourself, having been afflicted by the same disease, underwent death, We humbly implore you, that you may deign to preserve us from the same disease, which is so frequent and full of danger. (2) "Holy and most glorious one, if it should happen that, by the just judgments of God, we are afflicted by some apoplectic disease, we humbly implore you, that we may not lack the time to be able to be strengthened by the most holy Sacraments and to depart from this life in divine grace." (3) "Holy and most glorious one, who, about to give up your spirit, underwent a fierce struggle with the Demon, from which the Blessed Virgin and the Archangel Michael freed you, we humbly implore you to assist us in the terrible moment of death."

[*Latin ed. p. 223*]

LETTERS APOSTOLIC 223: Concerning Avellino, let us foster devotion and worship, and let us more diligently strive for the eternal salvation of souls. Confident in the mercy of Almighty God, and by the authority of the Apostles Peter and Paul, We grant, to all the faithful of both sexes who are truly penitent and have confessed their sins, and who have received Holy Communion, and who, having recited the aforementioned prayers, a copy of which We have ordered to be kept in the archives of Our Secretariat, in whatever language they are rendered, throughout the entire month, a Plenary Indulgence for all their sins, and We mercifully grant them remission in the Lord. To those faithful who, at least with a contrite heart, have recited the aforementioned prayers in any language whatsoever, We grant, for the time that they have performed this act, three hundred days of the penitences prescribed to them, or any other penitences due according to the

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custom of the Church. We also grant that all these Indulgences, remissions of sins, and relaxations of penitences may also be applied, for the benefit of the souls of the faithful Christians who, united with God in charity, have departed from this life, as a form of suffrage. This applies to all, notwithstanding any opposition. These present Letters are valid for all times, present and future. We decree that a copy of these present Letters (which, if this is not done, We do not wish to be considered valid) be presented to the Secretariat of the Congregation for Indulgences and Holy Relics, according to the Decree issued by that same Congregation on January 19, 1756, and approved by Our Most Holy Pope Benedict XIV, on the 28th day of that month: Furthermore, We wish that complete faith be given to copies, or printed examples, of these present Letters, provided they are signed by a public Notary and sealed with the seal of a person holding an ecclesiastical office. Given at Rome, at St. Peter's, under the Fisherman's Ring, on this 25th day of June, in the 24th year of Our Pontificate.

N. CARD. PARACCIANI CLARELLI, in place of the Signature.

These Apostolic Letters, in the form of a Brief, dated the 25th of June, 1869, were presented to the Secretariat of the Holy Congregation for Indulgences on July 7th of the same year, in accordance with the form of the Decrees of that Holy Congregation dated January 19, 1756, and 28 of the same month; and also dated April 14, 1851. In witness whereof, etc.

Given at Rome, on July 7th, 1869.

Dominicus Sarra, Pro-Substitutus.

[*Latin ed. p. 224*]

APPENDIX V. A DECREE OF THE SACRED ROMAN ROTA, ISSUED ON JUNE 15, 1699, IN A ROMAN CASE CONCERNING FUNERALS, BEFORE MOLINES, IN WHICH THE PRINCIPAL RIGHTS OF PARISH PRIESTS REGARDING FUNERALS ARE DISCUSSED. We promised to address the matter, which we explained on page 127 and following, and which is as follows: "From ancient times, it has been the custom in the City to assess funeral expenses for the deceased, whether those expenses were not previously determined, or were not paid by the heirs, according to the dignity, status, and means of each individual. This has always been the responsibility of the Parish Priest, when the bodies of the deceased were buried in his own parish church; however, when the bodies were buried in another place, it has been disputed whether the entire assessment belonged to him, or whether he should be content with his canonical fourth, with the remainder going to the church where the burial took place, in the manner in which it is done when the funeral is actually and truly performed there. However, in the year 1690, a similar dispute was brought before this Sacred Tribunal, concerning the funeral of the Reverend Father Rita, and before my Reverend Father Caprara, a decision was reached that the entire assessment belonged to the Parish Priest; to which the Fathers of Saint

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Augustine yielded, and solemnly renounced their claim. "Nevertheless, despite this decision, a similar dispute arose concerning the funeral of the illustrious Prince D. Fluvio Ursini, between the Parish Priest of the most holy Basilica of the Lateran, where the remains of that distinguished family were buried, and the Parish Priest of the church of Saint Eustachius, within whose walls the aforementioned Prince paid his debt to nature, regarding the assessment of the funeral, levied by the Chamberlain of the Roman Clergy; and in order that such disputes, which frequently occur, might be resolved, it pleased Our Most Holy Lord, the reigning Pope, to refer the present case to the Sacred Congregation of the Council, with the express desire of our Auditor, and after summoning and hearing all the other Parish Priests of the City, for the sake of their rights and interests. Therefore, since today, in accordance with the norms of this Decree, I have doubted whether a funeral that was not performed should be entirely due to the parish church, when the deceased was buried in another church, I divided the doubt into two parts, namely, whether the funeral that was not performed should be due, and whether it can justly be demanded; and..."

[*Latin ed. p. 225*]

APPENDIX V, to the extent that it is affirmative, concerning whether [the funeral expenses] are to be borne entirely by the parish priest, so that everything and all should be assigned to him; after mature and thorough examination, they gave the following response: the entire funeral expenses are to be borne by the parish priest.

"The first part of the resolution was deemed sound, based on the authority of custom, which has never been called into question, and which has great weight in this matter, as evidenced by *Certificad de sepult.*, Innocent, in chapter *Dilectus num. 4 de Capell. Monachor*, and in chapter *Ad audientiam*, where Ancharan, n. 6, discusses the matter of church buildings, as decided by the *Rota decis. 376 n. 2 par. i Recent.*

"But, more importantly, because the Catholic Church, having abolished and rejected the countless superstitious and ridiculous funeral rites of the pagans, as well as the extravagant and superfluous expenses that were lavished on this purpose, following the example of the Old and New Testaments, and guided by the rules of the Blessed Apostles and the Holy Fathers, has established pious and religious rites for the burial of the dead, namely, that their funeral should be accompanied by pious prayers, Psalms, and Masses, with the participation of clergy, with burning candles and other ceremonies of this kind, as recorded in *Acta, tomo V, fase. LIT 225*. This is done both for the comfort of the souls and the solace of the living, and to signify that the souls, separated from the body, live and enjoy the gift of immortality, that the deceased have died in the faith, awaiting the resurrection and the enjoyment of eternal glory, as demonstrated by St. Augustine in *Book on the Care of the Dead*, by Jerome, Ambrose, and oth-

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ers, in chapters *Non aestimandum 19*; *Animae 22*; *Tempus 23*; *Quia 24-*; and *Qui divina caus. 13 quaest. 2*; and as explained extensively by Cardinal Bellarmine in volume 1, *Controversiae, lib. 2 de funer. c. 9 et 10*; by William Benedict in chapter *Raynutius verb. Mortuo itaque testatore lib. 1 num. 54 de Testamentis*; by Durand, in *De ritibus Ecclesiae Catholicae lib. 1 cap. 23 a num. 10 ad 16*; by Cassan, in *Catalogus sanctorum, part 2 considerat. 3*; by Julius Lavor, in *Elucubrationes, variar, tit. 2 cap. 3 a num. 32 ad num. 17 et cap. 14 per totum*; by Beyerlinck, in *Theatro vitae humanae verb. Sepultura Ecclesiastica cum sequentibus*; by Francés, in *De ecclesia cathedral. cap. 17 n. 117 ad n. 156*; by Passerin, in *De officis et stat. homin. tom. 2 quaest. 187 art. 4 num. 34 et 35*; by Lar, in *De annivers. lib. 1 cap. 1 a.ff.um. 52 ad 58*; and by Amostazz, in *De causis piis lib. 6 cap. 1 a num. ad num. 27*.

"Indeed, this ancient institution of the Church has become so established throughout the Catholic world that it is universally accepted."

[*Latin ed. p. 226*]

226 APPENDIX V: It should be understood that among the interpreters of our law, it ought not to be permitted, by final execution, that the will of the deceased be enforced in that part in which they prescribe that their body be buried without any honor established by the Church, as is demonstrated by Valenz, vol. 3, distinct. 3, question 2; Bannez, 2, 2, question 32, article 3; Lavor, various elucidations, title 2, chapter 16, number 18; Ventrigl, in Practical Rules, notable observations for the Church, annotation 52, section 1, number 16; French ecclesiastical cathedral, chapter 17, number 153; Amostaz, on pious causes, book 6, chapter 5, number 13; Passerin, dictionary, article 4, number 35, in fine. Notwithstanding any contrary custom, because this [custom] is to be eliminated and eradicated as irrational and repugnant to all decency, as is proven by Pignatell, consultations, 229, number 14, vol. 4, from the final chapter on customs and others. "And for this reason, the Roman Ritual, approved by Pope Paul V of blessed memory, in order to restrain the impiety of heirs who neglect to follow the solemn manner of burying the dead, strictly warns the parish priests in the rubric on funerals, that such rites should not be omitted, nor allowed to fall into disuse, saying there: 'The sacred *caere* and rites, by which the Holy Mother Church, from the most ancient tradition and the institutions of the Supreme Pontiffs, is accustomed to use in the funerals of her own, as true mysteries of religion, and signs of Christian piety, and the most salutary prayers for the deceased faithful, the parish priests ought to preserve with the utmost care, and to maintain in use'; and further, below there: 'But since it is the custom of the most ancient ecclesiastical rites to carry lit candles in funerals, let them also take care that such rites are not omitted, and that nothing avaricious or unworthy is committed in this regard.' And His Eminence, Charles Borromeo, among the constitutions of the Provincial

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Council, also decreed (these are his words), 'That the ancient institution of the Church, of following the funeral of the dead with pious prayers and the solemn rites, which in many places has been corrupted by avarice, ambition, or negligence, be restored to its original state of piety.' And immediately afterwards, he adds there: 'If the heirs of the deceased have behaved so impiously, that, neglecting the religious institution of funerals, they have refused to provide the due lights, vestments, and funeral expenses, let them be compelled by the Bishop to provide what is necessary.' Therefore, considering the most ancient institution of the Church, which stands firm, of carrying the bodies of the faithful to the tomb with due funeral rites, the disapproval of the contrary custom, the will of the testators prohibiting it, and finally, the obligation imposed on the parish priests to maintain and preserve this practice, it is fitting and in accordance with the law.

[*Latin ed. p. 227*]

APPENDIX V. It is decreed by law in Rome, through a special statute of the Roman Clergy, that the heirs of the deceased shall be compelled to carry and expose the bodies according to the customary funeral rites, and that those who neglect to provide this solemnity and honor to the dead shall be taxed for the funeral not performed by the Treasurer of the Roman Clergy, according to their quality and means; for it would be in vain that the Church had instituted pious and praiseworthy rites, if they did not lead to observance, and if all were not prevented from hindering them by fraud. Thus, after omitting the general matters which could be gathered, the Text states in chapter *Officii*, §. If, and in chapter *fin.* concerning testaments, chapter *Ex parte in fine* concerning words and their meaning, and it agrees with the Roman Ritual in the aforementioned title concerning funerals, §. *Sacros*, §. *Caveant*, §. *Cum autem*, and more fully below. ''These things are wonderfully confirmed by the common opinion of Doctors, who say that, when someone dies intestate, leaving nothing for the expense of the funeral, Masses, or other pious offerings for his soul, the Bishop can and should tax and apply a moderate sum for these purposes, according to the deceased's status, quality, and means, and compel the heirs to pay it; especially given the established custom, which is very reasonable, as held by Genuen in *prax. Archiepiscop.*, chapter 79; Nicol. Elucubrai, volume 1, book 2, title 10 concerning testaments, number 16, page 172; Cortiad decisions, 2c8, numbers 45, 46, and 4-7; Cardin, *de Luca de testament*, discourse 24; Amostaz, *de causiis piis*, book 6, chapter 6, from number 55 to 74, where he confirms this very thing from the laws of Castile. Indeed, even more, from number 75 with two following, he also proves that, if someone dies with a will, but nevertheless disposes of nothing concerning the expenses of the funeral and offerings for his soul, to the extent that the heirs spontaneously refuse to perform them, the Bishop can compel them to distribute a proportionate part of the assets according

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to the deceased's quality and means: the same is defended by Spino *de testament*, gloss 2, number 54. "Nor should it be said that this custom of the city of taxing a funeral not performed is contrary to the disposition of the sacred Canons, which forbid demanding any price for burial in a church, and for the service rendered to human bodies, according to Text, in chapter *Abolendae* 13 concerning burial, in chapter *Questa* 12; chapter *Postquam* 13; chapter *in Ecclesiastica* 14; chapter *Praecipiendum* 15, cause 13, question 2; chapter *Plerique* 7 concerning *pactis*; chapter *Ad Apostolicam*, chapter *Suam*, chapter *Dilectus*, concerning simony; nor, perhaps, should it be said that the Church, or the priests, seem to rejoice at human deaths, if they strive to profit from the bodies of the dead.

[*Latin ed. p. 228*]

228 APPENDIX V: In order to seek, in any way, a summary, as Saint Gregory the Great exclaimed in writing to the Bishops of Messina and Cagliari, in book 7, letters 4 and 56, with others concurring, as extensively detailed by Gonzalez in the aforementioned chapter on abolishing [certain practices], concerning burials, and by Father Thomas in "De veteris et novae Ecclesiae disciplina," part 3, book 1, chapter 65 and chapter 66, throughout. "For, as it is undeniable that the Holy Fathers, Canons, and Councils never permitted that clerics and presbyters administer burials with any form of agreement or coercion; so, likewise, they never forbade the reception of spontaneous offerings made for this purpose, as the aforementioned Saint Gregory testifies in the aforementioned letter 56, where he states: 'If anyone is buried in your church, and if the parents or heirs of the deceased wish to offer something spontaneously for the lights, we do not forbid them to receive it.' And all the Canons cited in this matter agree; and this is the meaning to be understood in the text, otherwise difficult, in chapter 2, canon 24, cause 23, question 8, as noted by Gonzalez in the aforementioned chapter on abolishing [certain practices], number 8. 'Furthermore, since the custom of offering something for burials and funeral rites has been widely and everywhere diffused, and since such a practice in itself is pious and commendable for the reasons already explained, therefore, in order that piety may not cool, or that the religious custom may not become obsolete through the malice of someone, Councils and synodal statutes began to order and command that such customs be observed entirely, as, among others, Pope Honorius III, and not Innocent III, as Gonzalez rightly notes in the aforementioned chapter on abolishing [certain practices], number 13 on burials, enjoined upon the Bishop of Maga Ionen. The precise words are: 'Observe the commendable custom introduced into the Church of God by the pious devotion of the faithful, lest it appear to be corrupted by the ferment of heretical wickedness under the pretext of ecclesiastical purity.' And Alexander III, in chapter "Ad Apostolicam," commands the same thing, there: 'Therefore, we forbid these wrongful

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exactions, and we command that pious customs be observed, ensuring that ecclesiastical sacraments be freely conferred; but those who are maliciously inclined to change the commendable custom must be restrained by the Bishop of the place, after the truth has been ascertained.' And thus taught Saint Thomas, 2, 2, question 100, article 2, in the body and in the addition, and article 3, in the body and in the addition, 2; and Gratian widely recounts, in "Disputationes," 110, number 10, and in "Decreta Marchiae," 26, number 14 and 15; Lara, "De anniversariis et capellis," book 1, chapter 27, number 17; Amostaz, "De causis piis," book 6, chapter 7, number 27; Antonellus, de...

[*Latin ed. p. 229*]

APPENDIX V, regimen ecclesiasticum, book 1, chapter 12, number 55; Gonzalvo, in the aforementioned chapter, Abolendae, number 9; and solidly, Thomas Aquinas, in the aforementioned book, 3, chapter 68, throughout. "Therefore, the Glossa in the aforementioned chapter, Ad Apostolicam, in the words 'Nituntur laudabilem,' concerning Simon, and in chapter 29, the words 'Pro exsequiis,' in the same title, and in chapter Abolendae, 13, the words 'Exigere de sepult,' teaches that the people, if not by legal action, but by the office of a judge, can be compelled to maintain a custom introduced by the pious devotion of the faithful. And they confirm this in chapter Ex parte, concerning tithes, and Authentica, concerning holy bishops, § 'Pro consuetudine'; the Abbot, in the aforementioned chapter, Ad Apostolicam; Baldus, in his opinions, 58, paragraph 2; Castrensis, in his opinions, 363, book 1, concerning the first question; Grat, in his disputations, 210, number 24; Lavor, in his variations, title 2, chapter 10, number 23. 'Indeed, Alexander III, in the Council of Tours, as related by Gratian, in chapter Non satis, 8, § 'Pro sepultura,' and the Lateran Council, as related in chapter Cum in Ecclesia, 9, concerning Simon, both condemn the custom of demanding something for burial and funeral rites; because, as the Glossa correctly distinguishes in the aforementioned chapter, Cum in Ecclesia, at the word 'Consuetudine,' in the aforementioned Councils, the custom is condemned which originates from enforced payments made through an agreement previously entered into concerning the burial of the deceased. On the other hand, a custom introduced through numerous and frequent acts, entirely free and voluntary, undertaken and pursued out of pious and laudable devotion of the faithful, for the increase of divine worship, and for the proper and fitting support of pastors, and other ministers of the Church, is rightly called introduced, as explained by Saint Thomas, 2, 2, question 100, article 2, in the body, and ad 4, and article 3, in the body, and ad 2; the Abbot, in the aforementioned chapter, Suam 29, concerning simony, and in the aforementioned chapter, Ad Apostolicam; Castrensis, in the aforementioned opinions, 363, number 2, verse 3, requires it, and in his opinions, 401, number 4, volume 1; Roman,

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in his opinions, 344, number 1 and 2, and singular, 443; Gratian, in his disputations, 210, from number 33 to number 39; Lavor, in his variations, title 2, chapter 10, number 22 and 23; Lara, concerning anniversaries and chaplains, book 1, chapter 25, number 17; Amostaz, concerning pious causes, book 6, chapter 7, number 27; Antonellus, concerning ecclesiastical regulations, book 1, chapter 12, number 55. "This concerns the first part of the resolution. Addressing the second part, that the entire funeral rite is not due to the pastor, the reason for deciding this is as follows."

[*Latin ed. p. 230*]

230 APPENDIX V: There are two reasons for this. The first is that, according to the canonical censure of the old law, the right of burial belonged only to the parish priest, by reason of his church, which, by its very nature as a parish church, has its own territory, its people, and its cemetery. And since parishes were divided with these qualities, so that parish priests, confined to their own boundaries and districts, would know to whom they were to administer the sacraments and grant burial: *cap. Ecclesias caus. 13 quaest. 1*; *cap. Pastoralis 9 de his, quae fiunt a maiore parte Capituli*; Council of Trent, Session 24, on reform, chapter 13, verse: "In these matters also." And because, according to the law, only parish churches had a congregation and a cemetery, therefore, according to the same legal provision, only they were entitled to the right of burial; *Gloss, in Clement. Dudum de sepult, verb. Sepulturam*; *Innocent, in cap. 1 de Sepult. Abbas in cap. Fraternitatem 3 vers. Sed ego, eodem tit. de Sepulturis*; *Archidiaconus in cap. Certifican 9 num. 89 eodem tit. et in cap. 1 pariter eodem tit. in 6*; *Fagnanus in (/. cap. Fraternitatem num. 4 et 6, et Lavor. var. elucubr. tit. 2 cap. 9 num. 2, 3 et 7*; *Francés de Eccles. Cathedral. cap. 17 num. 7*; *Amostaz. de causis piis lib. 6 cap. 2 a num. 15 ad num. 19*. "Therefore, it is the common opinion of the ancient canonists that non-parochial churches, and especially those of monks and religious, because they did not, by law, have a congregation, and only retained a cemetery for themselves, could only bury their own monks, according to the explicit text in *cap. Placuit 1 caus. 16 qu. 1*, and that the right to bury others, who might choose burial in their churches, did not arise from the common law, but from a privilege of the Holy See, as is shown from *Cap. Certificari 9*; *cap. In nostra 10 vers*. On the contrary, where the gloss says, 'Unless by deceit,' there is: 'And so, because of deceit, the privilege ceases, burial.' *cap. 1 de pact. in 6*. And this is made more clear from Clement Dudum, verse: 'Of this kind also, regarding burial,' where, by the privilege of the Apostolic See, it is granted to Brothers, Preachers, and Minorites, that in the churches of their respective orders, wherever established, they may freely bury those who have chosen to be buried there: and thus, the Abbot says in *cap. Fraternitatem 3 de Sepult*, that he has never read any constitution in which it is stipulated that monasteries have, by right, cemeteries, except for their own: and this is

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confirmed by *Frideric. de Senis cons. 135 num. 19*; *Navarr. cons. 1 num. 1 de sepult, in novis*; *Cironius in cap 2 de sepult, in 5 compilât., Lavor. dicto tit. 2 cap. 9 num. 10*.

[*Latin ed. p. 231*]

APPENDIX V: Samuel, *De Sepulcris*, preface, 10, no. 2; Lezzan, *Verbum Sepultura*, no. 4; Gonzalez, II, chapter *De Fraternitate*, 3, no. 7, and in chapter *Super*, 8, no. 11. Concerning the text presented for exposition, see Amostaz, *De Causis Piis*, book 6, chapter 3, no. 1, and no. 38. And afterwards, the Pontiffs. "Certain modern authors, namely Fagnan, in the aforementioned chapter *De Fraternitate*, nos. 5 and 6; Passerin, *De Statu Hominum*, volume 2, question 187, article 4, no. 137 to no. 142; Bordón, *Resolutiones*, 51, no. 6, maintain that even Regular canons may be permitted to bury within their churches according to common law; but this is contrary to the opinion of all the ancient and most serious canonists; and furthermore, the texts cited by them rather favor the contrary opinion, which is the common one. For the aforementioned chapter *De Fraternitate*, 3, concerning burials, the Abbot explains in the verses, saying that it should be understood of monasteries that have a congregation, or that have the right to bury by privilege; and in this same sense, the chapter *Ubicumque*, 6, 13, question 2, and the chapter *Agapitus*, 23, 16, question 1, should be understood. The Gloss in the same chapter *Agapitus*, at the word *Missas*, and in the chapter *Intercedimus*, at the word *ab Episcopis*, 16, question 1, say the same. Therefore, Innocent [III] in chapter 1, *De Sepulturis*, when establishing a general rule in this matter, warns that all should be careful (these are his words) that not every church has a cemetery, but only those that have a congregation, or those to which it has been granted by privilege. "Therefore, since monks and other regulars were not, by common law, able to receive other faithful for burial in their churches, they sought Apostolic privileges, which, so that they would not be entirely prejudicial to parochial churches, were appended with the clause: *salva iustitia illarum ecclesiarum, a quibus mortuorum corpora assumuntur* [saving the justice of those churches from which the bodies of the dead are taken], by which clause the Pontiffs have always understood that the canonical portion due to the parochial church is to be preserved; and therefore, after these privileges have been removed, by law, the right to bury their parishioners belongs to the parochial church, privately, with respect to all regulars, as is said in the aforementioned chapter *Certificari*, 9, with the Gloss on burials, and as Gonzalez notes in chapter *Cum Super*, 8, no. 11, in the same title; Lavor, *Variatae Elucidationes*, title 2, chapter 9, no. 5; Barbos, *De Officio Parochi*, part 3, chapter 25, no. 10; Rota, decision 83, post. Tamburrin, *De Juribus Abbatiae*. "Secondly, the Lords requested [this right] according to the censure of its own common law, according to which funeral emoluments are reckoned among the parochial rights,

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and the right to request them has been granted only to those pastors who exercise the care of souls, not now by reason of labor."

[*Latin ed. p. 232*]

232 APPENDIX V, concerning matters pertaining to the burial of the faithful, but in compensation for the burden of the curate's office and the administration of the Sacraments. It is fitting that priests, who instruct the people through preaching, celebrate divine services, administer the Sacraments day and night, and offer prayers for the people, should also receive this emolument from funerals, among other necessary provisions for their proper and decent support, as is stated in chapters 1, 4, and 10 of Clement's work on Burial. This is also found in the same title, under Vitalian, number 5; Frederick, on the decrees, number 8 and 9; Roman, decrees, 342, number 1 and 2; Peter of Ubald, in the treatise on canon and parochial law, chapter 2 throughout, and chapter 6, number 1, and chapter 7, number 1; Barbos, on Parochial Law, chapter 25, number 19 and 32; Amostaz, on pious causes, book 6, chapter 3, number 39 and 42; Rota, before Montica, decision 294, number 1, and before Cavaler, decision 101, number 1; before Merlino, decision 19, number 2, and decision 480, number 5, and following, and decision 99, number 6, before Manzanedo; and decision 402, number 5, and following, paragraph 5. Recent, volume 1, decision 552, number 8, in the same paragraph, volume 2. "However, since the right to bury and to collect funeral expenses belongs to the parish priest, and this right is granted only to non-parochial and regular churches by privilege and concession of the Apostolic See, in cases where the deceased have chosen to be buried in those churches, it follows plainly that, where there is no proof of a privilege granted to non-parochial churches to collect funeral expenses, that collection must, without any doubt, be made by the parish priest, supported by the established principles, since he is considered to have a well-founded intention, as stated in decision 151, number 7, and paragraph 6 of Recent, and he who claims a privilege must prove it, in such a way that there can be no doubt about it, as stated by Francis of the Cathedral, chapter 30, number 194; Rota, before Buratt, decision 140, number 1, and decision 185, number 9, before the Most Holy Memory of Alexander VIII. "Furthermore, such a privilege has not yet been demonstrated to exist in the body of the law, unless it is supported by what is stated in chapter 2; chapter 'Cum super'; and chapter 'In nostra,' of Clement's work on Burial, under the same title. For although it is stated there that the church that buries the deceased outside the parochial church is only obliged to pay the parish priest his canonical portion, which Clement III, in chapter 9 of his work on Burial, has fixed at one-third or one-fourth of the funeral expenses, and of the legacies left for the burial of the relatives, or even at half, according to the customs

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of particular places and regions.

[*Latin ed. p. 233*]

APPENDIX V, as many others have extensively discussed, Amostaz, *de caus.* 233. Furthermore, in chapter In nostra 10, it is stated that the half of the expenses incurred in Rome is to be paid, and this has been established by law through a decree of the Roman Clergy, confirmed by the Most Holy Pope Urban VIII in the year 1629, under chapter 4, as reported by Barbos, *de iur. eccles* lib. 3, cap. 2, n. 41 and 42; Passerin, *de "Talem super his duximus senten"* states: "We have judged it fitting to express the following, that from now on, the hospital properties of the aforementioned church shall not be considered part of the parish church, unless the individuals choose to be buried there; and even then, the parish church shall receive the offerings, readings, and other things that the deceased has designated for such purposes." This is further clarified in *stat. homin. quaest.* 187, art. 4, n. 487, at the end. It is cautioned in Clem. Dudum §, *Verum piis* lib. 6, cap. 3, from n. 37 to 42, "However, the decrees and regulations of the Council concerning funerals and legacies are expressly stated in their final sections, concerning the church that buries the deceased, as is literally evident from chapter 1 on Burial, where it is written: 'For the workman is worthy of his reward; we believe that a third part of his estate should be given to the church, in which he is accustomed to receive heavenly nourishment.'" From this phrase "of his estate," it is clearly understood that the Pope is speaking about the legacies left to the church that performs the burial. The Glossa also explains this well in the word "estate." The same is stated in chapter Relatum 2, where it is written: "Of all things and possessions that he has decreed to dispose of for the salvation of his soul, he shall leave half to the church to which he is known to belong." And it is agreed in chapter Cum super 8, where it is stated: "By the authority of this decree, we establish that if any of the parishioners choose to be buried elsewhere, a fourth part of his estate shall be left to them." This is further emphasized: "In order that the parish churches and their pastors or rectors, who administer the ecclesiastical sacraments, may not be defrauded of their due and necessary benefits, by the authority of the Apostolic See, we decree and ordain, brothers, concerning all offerings, both funeral and any other, and concerning whatever is left, and also concerning those given or otherwise donated at the point of death, etc., that a fourth part is assigned by the authority of the Apostolic See." "Therefore, if the privileges granted to non-parochial and regular churches for funeral offerings are restricted to funeral offerings and legacies left by testators, after deducting the canonical portion for the parish, in no way can they be extended to emoluments for funerals not performed, and according to the custom of taxation, resisting the nature of

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the privileges, which are of the strictest law, chapter Privilegium di-"

[*Latin ed. p. 234*]

234 APPENDIX V instinct. 3; cap. Abbate §. Conversely, concerning the signification of words; leg. Because it is personal, ff. solut. matr. Surd. decis. 330 num. 4; and it is only valid insofar as it literally sounds; Innocent, in cap. Dilecto, de offic. Archidiacon, cap. Auditis, where Felin. num. 10 concerns the French decree, de Eccles. Cathedral. cap. 30 num. 171 and 185: Rota decis. 2252 num. 7 before Coccino. "Without contradicting the identity of reason that is alleged to exist between a funeral that is performed and one that is not performed, because, even with this concurrence, privileges are not extended from case to case in a similar manner, cap. Suggestum de decim. leg. 1 Cod. de legib, late Giron. de privileg, et exempt, explic. ex num. 53; Carol. Tapia ad rubr. ff. de constit. Princip. cap. 6 throughout; Hortig in patrocin. Gimnas. Caesaraugustam par. 3 num. 16 and following; Fontanell. decis. 476 num. 7; Rota decis. 8 num. 3 and 4 par. 8 and decis. 287 num. 6 par. 18. And specifically, that the Clementine decree, in matters contrary to common law, must be strictly understood, as stated there, Gloss, in verb. de Iure; Petr. de Ubai, de canonie, portion, cap. 4 num. 15; Passerin. dicta quaest. 187 num. 512 and individually, that this Clementine decree, since it speaks of those who are left without heirs, does not include a funeral that is not performed, as stated by Pignattell. tom. 6 consult. 88 num. 2 and 3, Rota in dicta Romana funeralium, April 24, 1690 §. It was seen, before my Reverend Father. "Furthermore, concerning the effect of which we are speaking, a notable distinction exists between a funeral that is left by the testator or performed by the heirs, and a funeral that is not performed and is subject to taxation according to custom. For, in this regard, the sacred Canons have separated only a fourth from the funeral left to the church that buries, for the benefit of the parish church, insofar as, on the one hand, all laws demand that the judgments of the deceased be observed, leg. Meminerint Cod. unde vi, et auth. de heredib. et falcid. in fine. On the other hand, it appeared very harsh that the dying, forgetting the parish church, from which they, as spiritual children, received the food of eternal salvation, should disinherit and defraud the mother church in order to favor the church that buries outside of it; and therefore, with the power granted to each to choose the burial at their pleasure and discretion, it was stipulated that a fourth of all emoluments and offerings made to the church that buries should be deducted in favor of the parish church, so that, just as the ministers of this church have been partners in the sufferings of the faithful living under it, so too they should be partakers in the consolation in death, according to the words of the Apostle in chapter 1 to the Corinthians,

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as mentioned in chapter 1 on burials, and tra-

[*Latin ed. p. 235*]

APPENDIX V, there, Abbot No. 3; Hostiensis and John Andrew, more fully Gonzalvo, in chapter Concerning Burial. Pignatelli, in volume 4, consultation 229, number 10, and in volume 6, consultation 88, number 6, where he cites a beautiful passage from St. Augustine, reported in chapter Placuit 7, section. But it does not seem free, and in chapter Si quis irascitur 13, question 2. "But since the disposition of a man ceases, because indeed the funeral is neither left by the testator, nor is it performed by the heir, no right, nor does reason, suggest that the expenses of a funeral not performed belong to a non-parochial church that buries [the deceased]. Not a right, because if one considers the ancient canons, this [right] granted the right of burial and funeral rites only to the parochial church. Nor a new right from later canons, because these expressly permitted non-parochial and regular churches to bury and to receive the expenses of a funeral explicitly left [in a will], as has also been demonstrated. Nor reason, because if it is founded on labor, which is sustained in the celebration of funerals, and this is not performed, the labor ceases, and consequently, no payment is due for it, as noted by the Rota in the aforementioned Roman decree on funerals, April 24, 1690, section. And this is confirmed, less by the reason given for the burial. For either it is a matter of those who have the burial of their ancestors, and they have the right to be buried there; or, in the case of those who do not have [such a right], only the burying church can claim payment for the burial performed, which is usually offered voluntarily; never, however, should a funeral not performed be taxed according to the dignity and means of the deceased, because this is the right solely of the parochial church. For one thing is the right of burial, and another is the right of performing funeral rites: the former belongs to other non-parochial churches by privilege; the latter always belongs to the parish priest, as Lapum alleges in number 59, number 3, where he cites chapter 2 on burial, in 6, and follows Pignatelli, volume 6, consultation 88, number 8. * On the contrary, both right and reason favor the parish priests. For the old law granted them both the right of burial and the right to demand funeral expenses; the new law likewise, because from things left to the burying church on the occasion of the burial, a fourth part was separated for their benefit, contrary to the will of the testator himself, as Roman, consultation 343, numbers 1 and 2; Frederick, consultation 3, numbers 8 and 9; Ancharan, in chapter On Offices, concerning testaments, and there Abbot, numbers 3 and 5; Peter de Ubald, on funerals, port, chapter 3, number 2. Reason, because, as the Council of Vienne, in the often-cited Clementine decree, states, the parish priests have the duty of administering the ecclesiastical sacraments, of preaching and proclaiming the word of God, and of hearing the confessions of the faithful. Therefore,

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it is just and fitting that, just as...

[*Latin ed. p. 236*]

236 APPENDIX V: When testators dispose of property in favor of the burying church, they receive the canonical portion; thus, when they die without having made any such disposition, and their heirs behave impiously or negligently towards them, failing to provide the customary funeral rites, the parish church, as a mother to her spiritual children, is entitled to the full amount, according to custom, just as happens in the very fourth canon, whenever it is not left to the testator, as Frideric de Senis states in his *Consilia*, 3, number 8; *Roman* *Consilia*, 343, numbers 1 and 2; Pignatelli, *Consultationes*, 229, number 10, volume 4, and *Consultationes*, 88, number 6, volume 6. ”Therefore, in the statute of the Roman clergy, chapter 4, title concerning the canonical portion, sections 4, 5, and 7, it is stipulated, considering the case in which funerals are celebrated in a church other than the one where the burial takes place, that the expenses should be divided between the parish church and the church in which the funeral was celebrated, because, indeed, this latter cannot claim any right to the taxation of the funeral not performed or requested, as noted by the Rota in the aforementioned *Roman* proceedings concerning funerals, before the Most Reverend D. Caprara, section [Idque comprobatur].” ”Furthermore, it is established, based on what has been stated above, that a funeral not performed, given the disposition of the law, pertains entirely and in its entirety to the parish priest; no objection to the contrary, alleged by the parish priest of the Lateran Palace, and supported by several extrajudicial testimonies, has been found valid; because, since several other testimonies have been presented from the part of Saint Eustachius and other parish priests of the city, confirming the opposite, no solid foundation can be established for such a different observance, and since the actions are interrupted here and there; therefore, one must only refer to the judgment of the law, as stated by Alexander in his *Consilia*, 173, throughout book 6; Decius, *Consilia*, 214, almost throughout; Bich, *Decisiones*, 48, number 15; and in the aforementioned *Roman* proceedings concerning funerals, before the Most Reverend D. Caprara, penultimate section.” ”Finally, the arguments presented by the perpetual vicar or parish priest of the Basilica of the Lateran, in order to obtain a funeral not performed, were deemed insufficient, based on the accumulation of reasons concerning the superiority and preeminence of the aforementioned sacred Basilica, because such superiority and preeminence consist in the fact that it is the seat of the Supreme Pontiffs, the head of all the churches of the city and the world, and it holds the first place among them, as stated in Chapter Constantinus, 13, distinct 96; and Gregory XI, Blessed Pius V in Constitution 94, and Sixtus V in Constitution 19, declared that these privileges do not operate in such

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a way that the vicar of that Basilica can exercise any..."

[*Latin ed. p. 237*]

APPENDIX VI: Concerning parochial jurisdiction over the subjects of other parishes. Indeed, in the City [of Rome], the parishes are distinct, and each has its own districts and boundaries, which the pastors are not permitted to overstep; and even the perpetual vicarius of the Lateran Palace has his own distinct and separate charge, with the assignment of emoluments derived solely from the actual service of his own parish, as is evident from the Institution of the vicarius of the Lateran Palace and from the document concerning 237 churches in the City, issued by the Most Holy Pope Pius V in Constitution 139, and as handed down by Pignatelli, volume 7, consultation 89, in its entirety, and particularly number 16 and following. Thus, it is not permitted to the aforementioned vicarius, in the exercise of his charge, nor in this matter, to put the sickle into another's field. "And thus, after consideration by both sides, it was resolved."

[*Latin ed. p. 238*]

APPENDIX VI. A JURIDICAL QUESTION CONCERNING THE RIGHTS OF PAROCHES IN A RECENTLY ESTABLISHED PUBLIC CEMETERY. We address this juridical question in these pages, not because it was proposed to us, but because we have heard that others have also been called into doubt regarding a similar matter. The question presented to us is as follows: In the year 1868, the Municipality of the city of N. in Italia established a public cemetery near the same city, in a garden which the Government had seized from a religious house adjacent to it. When the Municipality established this public cemetery, it designated a chapel within it for the use of the clergy, which, since it was already a parish church, was overseen by a Regular Priest as its Pastor. Furthermore, the Municipality presented its own regulations, and established the election of a Chaplain, to whom it assigned a portion of the religious house for habitation, along with a small garden, and an emolument amounting to approximately five hundred annual livres. Moreover, the Municipality decreed that parents of the deceased who were to be brought to the cemetery should pay fifteen, twenty, or thirty obols to the aforementioned Chaplain, according to the condition and means of each, as a fee for the burial. Finally, after the election was held, the very Regular Priest who had already been serving as Pastor of the aforementioned church was elected as the Chaplain, a priest who otherwise would have had to leave to make way for a new Chaplain. Now, it happens that not all families permit their deceased to be brought to the cemetery in a funeral carriage with the association of the aforementioned Chaplain; but many, after having properly performed the funeral rites in each parish church, which all do, wish that the Parishes themselves, with solemnity and ceremony,

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accompany the deceased to the cemetery, who are then brought by the Parishes to the cemetery's Chaplain, and from there are delivered to the designated burial place. The question is asked: Does the cemetery Chaplain, by reason of this service, have the right to receive offerings of candles which are placed around the cadaver?

[*Latin ed. p. 239*]

APPENDIX VI: In the temple of the cemetery, let what is deposited by each parish priest be consumed by fire. Here is the case presented: It is not a question here whether this was done legitimately or illegitimately; but, having established the supposition that everything was done properly through the intervention of ecclesiastical authority, the solution to the proposed question depends on certain general principles of canon law that apply to matters concerning burials. The first principle is that the rights of parish priests regarding public cemeteries remain intact, and nothing is to be innovated in the law concerning burials; concerning which principle mention is made in these chronicles in the case explained in Volume I, page 85 and following, and about which we wrote in Appendix V, ibid., page 124 and following. The second principle is that public cemeteries are newly established in the place of the parish cemetery, so that the public cemetery represents all and each of the parish cemeteries. Then, both this and the first principle spontaneously derive from this consideration, that the constitution of a public cemetery (which is done for the sake of public health; concerning which, see what I noted in Volume III, page 44 and following) carries with it, according to the intention of the ecclesiastical authority that permits or establishes public cemeteries, nothing other than a change of the material location in which the individual parishioners of each parish are buried. Therefore, parish priests, when they are present in a public cemetery and are attending to the deceased, are in the place of their own jurisdiction: and there they can exercise towards their own deceased all the acts of jurisdiction that they would exercise in their own parish cemetery; and therefore, all those rights that would belong to them in that parish cemetery, the same belong to them in the public cemetery. The third principle is that parish priests have the right to accompany the body of their parishioner with the funeral procession even to the tomb: this right is so firm that it also carries with it the right to pass through other parishes and dioceses. Concerning this matter, it is helpful to recall the Apostolic Letters in the form of a Brief from Innocent XI, with which he confirmed certain Resolutions of the Sacred Congregation concerning this matter. Thus are the aforementioned Apostolic Letters: "Recently, our beloved sons, the Brothers of the Order of Friars Minor of Saint Francis of the Observance, called the Reformed, of the locality of Binasco in the diocese of Pavia, have explained to Us that they obtained a Decree from the then existing Congregation of the Sacred Roman and Universal Church,

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the Cardinal Council of Trent, concerning this matter."

[*Latin ed. p. 240*]

APPENDIX VI: "Regarding the following points, namely: 'Papien. Funerum. Regular Minor Observants of the diocese of St. Francis in Papien. Due to certain inconveniences arising from the transportation of the deceased, who are brought to the church of the Regulars, where they have their own burial places, they request that the following be declared: I. Whether a pastor of any diocese, whatever it may be, in the transportation of a corpse, which is carried processionally to the church of the Regulars from another diocese, while passing through his own jurisdiction and parish, may demand any portion of wax, and of money from the heirs of the deceased. II. Whether the proper pastor of the deceased, while passing through the parish of one parish of any diocese, in order to carry the corpse processionally to the church of the Regulars, may freely and lawfully pass through the same, with a stole and raised cross, even without the permission of the pastor." On November 28, 1671, the Sacred Congregation responded: to I, negatively; to II, affirmatively. In witness whereof, etc.

"Furthermore, as the aforementioned exposition added, the aforementioned proponents greatly desired that this decree, in order that it may remain firm and be observed more exactly, be communicated under the protection of Our Apostolic confirmation. We, wishing to show special favor to these proponents, do hereby approve and confirm the aforementioned decree with Apostolic authority, and we add to it the inviolable strength of Apostolic firmness, always preserving, however, the authority of the aforementioned Congregation of Cardinals, declaring that these present letters shall always exist, valid, and effective, etc., etc., on December 11, 1676."

This is fully consistent with the Resolution of the Sacred Congregation of Bishops and Regulars, published in Piacenza on November 24, 1713. The following doubts were presented to the Sacred Congregation for consideration in this matter:

I. "Whether, on the occasion of the funeral of a corpse from another diocese or parish, in the church of St. Mary of the Angels, in the province of St. Didacus, of the Regular Minims of the monastery of Serrae, the proper pastor of the deceased may freely pass through the same parish of the monastery, with a stole and raised cross, in order to carry the corpse processionally to said church, even without the permission of the pastor.

II. "Whether said pastor of the monastery, on the occasion of the passage of a corpse from another parish and diocese, may demand any portion of wax or money from the heirs of the deceased for funeral expenses or for

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any other reason."

[*Latin ed. p. 241*]

APPENDIX VI III. "Can the parish priest demand from the heirs of the deceased, who is buried in the aforementioned church of Saint Mary of the Angels, either a double fourth, that is, two Philipps, or an entire cera [a measure of land], and one Philipp, or rather, a single fourth of a Philipp, or solely a cera? To this, the Sacred Congregation responded: To the first question, affirmatively. To the second and third questions, negatively. The third principle derives from the pastoral office, which is entrusted to the parish priest by the Church. For the parish priests are appointed by the Bishop to nourish the faithful with the example of Christian life, with the food of doctrine, and with the sacraments; to be present to them in death, and then, after the body has been carried forth, to offer prayers for the souls, according to the rites of the Church, until the body of the deceased is laid in its place of rest. Nevertheless, both the aforementioned first two principles, and this third principle, may be subject to some limitation due to external causes that prevent them from remaining fully intact. Regarding the first two principles, they may be subject to some limitation due to the existence of a common cemetery, insofar as it is common: for insofar as it is common, and therefore separate and distinct from the parishes, it is fitting that there be a chaplain present, who presides over the sacred place as a custodian, who maintains order according to the episcopal precepts, and who cares for the cemetery. It is most fitting that a church also be present in the same Christian cemetery, in which divine services are also performed. All of these things, whether it be a chaplain, or a cemetery, or a church, if they do not have their own proper endowment from which to derive the necessary expenses, require that the heirs of the deceased of each parish provide for these expenses, established by some slight tax through an episcopal decree, for the burdens of such a cemetery; and it would not be inappropriate if, in proportion to the assistance provided, the parish priests themselves were also required to contribute a portion of their rights from those revenues which they do not receive for any other reason, except on the occasion of the common cemetery, as happens in Rome, although for very special reasons, which do not apply to cemeteries in other dioceses. The third principle is subject to some limitation when it concerns the tomb of another, as is discussed above on page 214, §. and following, in detail. From these provisions, it is clear what must be said in the case in question. Since we are not dealing with the expenses of the cemetery or the church, but only with the rights of the chaplain, [reference to Acta, volume V, page 241].

[*Latin ed. p. 242*]

242 APPENDIX VI. The sexton is nothing more than the caretaker of

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the cemetery and the church, and therefore, he is entitled only to a just compensation for the services he performs, and the judge of this just compensation is the Bishop, who, in the absence of a designated endowment, may employ the means of which I spoke earlier. Therefore, considering the nature of the office, he can claim nothing from the parochial funds for funeral expenses. And concerning the candles, about which the inquiry is made, he cannot, by reason of the nature of the office and the place, claim anything for himself, neither by reason of jurisdiction, since he is only the caretaker of the cemetery and the church; nor by reason of the burial ground, since the church, being joined to the cemetery, represents the parochial cemetery, and is in its place; nor by reason of the funeral association, since this right belongs properly to the Parish Priest. This is our opinion, always subject to a better one.

[*Latin ed. p. 243*]

FROM THE ACTS OF THE ECUMENICAL COUNCIL OF VATICAN: We have been entrusted with reporting all the acts of the Ecumenical Council of Vatican, which, at the time when we write these chronicles, can become matters of public law. Moreover, we shall present to our readers not only the Decrees and Canons of the Council, but also the Constitutions, Allocutions of the Roman Pontiff, which have been issued or distributed or published on the occasion of the Council; indeed, we shall also report those acts which are customarily called official, and which, although not pertaining to doctrine, will nonetheless be helpful for historical understanding. We say this with greater confidence, because a gracious faculty has been granted to us to possess authentic documents from the Secretariat of the Vatican Council. However, should it happen that we must add something from our own notes, especially in matters pertaining to history; so that these may not be mixed with the acts of the Council, we shall follow this rule: we shall place the sentences of the authentic acts first, and we shall conclude them with the same, omitting entirely the commas in those things which it may happen that we must add, and which we shall also insert within parentheses as the occasion demands.

CONCERNING THE PROSYNODAL MEETING HELD ON DECEMBER 2, 1869: "Notification to be made by messengers, with a copy dismissed." Also, "On Friday, December 2nd of the year 1869, at the tenth hour of the morning, in the Sistine Chapel of the Apostolic Palace of VATICAN, before His Most Holy Name, POPE PIUS IX, there will be a prosynodal assembly, to which will be present the Most Reverend and Right Reverend Cardinals and the Right Reverend Fathers."

[*Latin ed. p. 244*]

FROM THE ACTS: "Therefore, all and each of the Most Reverend and Right Reverend Cardinals, who shall wear violet garments with a rocchetto,

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mantelletto, and mozzetta, and the Right Reverend Fathers who shall be present wearing the prelate's habit with a rocchetto appropriate to them, are hereby summoned. "Also summoned are the Major Officials, namely the Custodes-Secretaries, the Subsecretaries and their assistants, the Notaries with their assistants, the Scrutatores suffragiorum [tellers of votes], the Promotores [prosecutors], the Magistri Caeremoniarum [masters of ceremonies], the Assignatores locorum [assignors of places], who shall take the prescribed oath before the HOLINESS of His [Holiness]. "By order of His Holiness, the Most Holy Father, the Pope." "Aloysius Ferrari, Apostolic Protonotary, Prefect of Ceremonies." After this, the summons was delivered to all the Fathers present in Romae, and the appointed day and hour arrived for the assembly in the Sistine Chapel. The Pontiff's throne was placed next to the wall on the right side of the altar, as was customary; the usual seats for the Cardinals followed the throne on both sides; and on the right of the Pontiff, further along, were seated the Cardinals, then the Bishops, and then the Presbyters; the Deacons, who were fewer in number, were seated on the left, closer to the altar. Facing the Pontiff, next to the wall, were seated the Patriarchs, then the Primates and Archbishops. In front of the altar were seated the Bishops, then the Abbots and the Superiors of Orders. With all these arranged in this manner, the Pontiff, surrounded by his noble family and administrators, entered through the private sacristy, which is located behind the altar: at the entrance, Cardinal Patrizi offered him the aspersorium [sprinkler], as he was the senior among those present in the dignity of Cardinal. The Pontiff first sprinkled himself, and then all those around him; and as he proceeded, silently blessing, the Fathers of the Council spontaneously knelt, receiving that blessing. After the Pontiff had, as was customary, prayed for a short time in the faldistorium [canopy] placed before the altar, he ascended the throne, and with a clear voice, to all the Fathers present, he read the Allocution, which is of the following tenor.

[*Latin ed. p. 245*]

VATICAN COUNCIL, ADDRESS 245: "Given in the General Congregation before the first session of the Vatican Council by Our Most Holy Lord, our Pope Pius IX, by Divine Providence, on December 2nd of the year 1869, to the Catholic Bishops of the world who have convened in Rome for the same Council."

Venerable Brothers: "The sacred ecumenical Vatican Council, convened these few days hence, seemed to Us, V.V., most opportune and most pleasing, so that We might address you all today, gathered here according to Our desires, and so that We might open to you the profound charity which We cherish in our heart. For the matter at hand is of great importance, namely, that in which remedies are sought for all those evils which disturb Christian and civil society at this time. We considered it fitting, and in keeping

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with the magnitude of this matter, that before the actions of the Council begin, We might, with all hope, implore the help of the most clement God for your heavenly blessing; and We deemed it necessary to impart to you those norms, which We have consigned and published in Our Apostolic letters, which We have indicated are to be observed in all conciliar actions, properly and in order. This, however, V.V., is what We are accomplishing today in this most ample assembly of yours, with the assent of God and the Immaculate Mother of God to Our prayers; and We cannot sufficiently express the great consolation which this, so desired and due obedience to the Apostolic voice, brings Us, when We see you, finally, having been summoned by Us from all parts of the Catholic world for the purpose of this Council, and united with Us in mind and heart, whom extraordinary devotion towards Us and the Apostolic See, a wondrous zeal for the work of Christ's Kingdom, and in many cases, even suffering for Christ, rightly make most dear to Our heart. And this, V.V., this union of yours with Us is all the more pleasing to Us, because in it you follow the footsteps of the Apostles, who..."

[*Latin ed. p. 246*]

246 FROM the acts of our unanimous and steadfast union with the Divine Master, shining examples have been left for us. For we know from the sacred scriptures that when Christ the Lord, traversing the regions of Palestine, journeyed through cities and villages, preaching and evangelizing the Kingdom of God, the Apostles adhered to His side with equal zeal, and twelve of them, as Saint Luke (1) says, were always with Him, whatever the journey. And this union of the Apostles shone even more brightly at that time, when the Heavenly Master, teaching in Capharnaum about the mystery of the divine Eucharist, spoke with greater clarity to the Jews: then, since that people, of carnal and obtuse understanding, could not be persuaded of such a work of charity, and thus the Master's words were rejected, so that many of the disciples, as John testifies (2), went back and did not walk with Him; yet the love of the Apostles, unwavering in their veneration and obedience to the Master, persevered, and when Jesus questioned the Apostles whether they also wished to go away, Peter, deeply grieved, burst forth with these words: "Lord, to whom shall we go? for you have the words of eternal life." Let us remember these things, and what could we consider sweeter or more delightful in this our union, and what, moreover, should we strive to defend with greater firmness and stability? Certainly, we, united in the name of Christ, will not be without contradictions and conflicts to endure, nor will the enemy man be slow, desiring nothing more than to sow tares; but let us remember the Apostolic firmness and constancy, which the Lord praised: "And you are they who have continued with me in my temptations:" (3), and let us remember our Redeemer clearly declaring: "He that is not with me, is against me." We

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must also be mindful of our duty, and strive with all diligence to follow Christ with unwavering faith and firmness, and to adhere to Him with concordant hearts at all times. For we are constituted in such a condition that we must engage in a long and arduous struggle against numerous and fierce enemies. We must use the spiritual weapons of our warfare, and sustain all the force of the contest, both with the divine authority to which we are subject, and with the shield of charity, patience, prayer, and constancy.

(1) Luke 8:1.

(2) John 6:67.

(3) Luke 22:28.

[*Latin ed. p. 247*]

The fear at the Vatican Council is that our strength may fail us in this struggle, if we do not fix our eyes and minds on the Author and Finisher of our faith. For if the Apostles, by fixing their eyes and thoughts on Christ Jesus, were able to endure all adversities with fortitude, then, by likewise beholding Him in the saving work of our Redemption, and from that source, from which the divine power flows, we shall find that strength and vigor with which we may overcome calumnies, injuries, and the machinations of enemies, and with which we may draw salvation for ourselves and also for those poor souls who have strayed from the path of truth, from the Cross of Christ. And indeed, it is not enough to behold our Redeemer; we must also cultivate that docility of mind, so that we may willingly and with all our heart listen to Him. For this is what the Father of Heaven Himself commanded, with the authority of His Majesty, when, revealing His glory to His chosen witnesses on a high mountain, He said through Christ the Lord: "This is my beloved Son, in whom I am well pleased: hear ye him" (Matthew 17:5). Therefore, let us listen to Jesus with a ready mind in all things, but especially in that matter which He held so dear, and concerning which He did not fail to beseech His Father in the Upper Room at the Last Supper, with fervent and repeated prayers: "And now I am not in the world, and these are in the world, and I come to thee. Holy Father, keep them in thy name whom thou hast given me: that they may be upon one, as we also are" (John 17:11). Let all of us therefore be united in heart and mind in Christ Jesus. Indeed, nothing will bring us greater consolation than if we constantly offer our hearts to listen to the warnings of Christ, so that we may recognize that we are with Christ, and we may find within ourselves the clear pledge of eternal salvation: "He that is of God heareth the words of God. Therefore you hear them not, because you are not of God" (John 8:47). May Almighty and Merciful God, with the intercession of the Immaculate Mother of God, confirm these exhortations of Our Pontificate with His powerful help, and may He deign to make them fruitful. May He then turn His face towards you, Venerable Fathers, and may He bless both

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your bodies and your souls with the grace of His benediction: may your bodies be strengthened so that you may bravely and diligently endure all the labors that cannot be absent from your sacred ministry; and may your minds, abundantly filled with heavenly aids, shine forth in the salvation of the Christian flock with the example of priestly life and the splendor of all virtues.

[*Latin ed. p. 248*]

248 May the grace of this blessing continually remain with you, and may it kindly inspire all the days of your lives, so that you may find your days filled with sanctity and justice, filled with the fruits of holy works, in which true riches and glory are contained for us. And may it so happen for us that, having completed the course of our mortal pilgrimage, on that final day of life, we may not fear to say with the Prophet King: "I rejoiced in the things which were said to me: 'We shall go into the house of the Lord' " and that we may confidently expect to enter the Holy Mount Sion, the Heavenly Jerusalem." The Pope, having delivered this address and having completed it, imparted the Apostolic Blessing to all the Fathers according to the customary formula. Then two Cardinal Deacons, Antonelli and Grassellini, ascended to the solium, one to the right and the other to the left of the Pope; also, Cardinal Claretti ascended, who was in charge of dispatching the Apostolic documents in the form of a Brief, and at the Pope's command, he publicly announced the names of those who had been appointed to serve and assist in the affairs of the Council, and also the names of their assistants; that is, he solemnly announced the elected Cardinal Presidents, and the Officials, who are described below. Then the same Cardinal Claretti, in a raised voice, ordered that those who had been named as Officials should approach, with the exception of the Guards and the Secretary, who is a Bishop, to take the oath. Thus, the administrators of the Council were brought before, with the presiding Secretary, Joseph Fessier, who ascended to the solium and stood to the left of the Pope, while all the others knelt before the Pope, forming circles, partly above the steps of the solium and partly below the solium; and at the same time, the Prelate, Louis Jacobini, Under-Secretary of the Council, pronounced, in a raised voice on behalf of all, the following formula of oath: "We, Officials of the General Council of the Vatican, chosen by your Holiness, promise and swear, by the most holy Gospels, to faithfully fulfill the office assigned to each of us, and not to divulge anything, nor to reveal to anyone outside the aforementioned Council, anything that may be proposed for examination in that Council, nor any discussions, nor the opinions of individuals; but to maintain inviolable fidelity of secrecy concerning all these things, and concerning all other matters that may be specially

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entrusted to us."

[*Latin ed. p. 249*]

AT THE VATICAN COUNCIL 249. With two Cardinals, Deacons, holding the book of Gospels before them, the two standing before the Pope's knees, the officials rose and, one after another, at the suggestion of the presiding Secretary, placed their hand on the book and pronounced these words: "And I, NN, of the Holy Council (here, the name of the office is indicated), promise, vow, and swear, as in the prescribed formula. May God assist me, and may these holy Gospels of God." Then, they kissed the Pope's foot and departed. The Pope, having seen that everything had been completed, rose and descended, and, with a brief prayer as before, departed. After this assembly had been dismissed, the Masters of Ceremonies distributed copies to all the Fathers of the Council, both of the aforementioned Address and of other Apostolic Letters in the form of a Brief, which are as follows: "By the Divine Providence of our most holy Lord Pope Pius IX, these Apostolic Letters establish the order to be observed in the celebration of the Sacred Ecumenical Council of the Vatican." POPE PIUS IX, FOR THE SAKE OF FUTURE MEMORY: "Amidst the many difficulties in which we are involved, we are most eager to offer thanks to the Divine Clemency, which consoles us in all our tribulations (1), and by whose grace it will soon come to pass that the Sacred General and Ecumenical Council of the Vatican, which we have already convened, with its blessings, will proceed happily. We joyfully command that the solemn day of this Council's convocation be held on the feast of the Immaculate Conception of the Blessed Virgin Mary, and that we shall begin its proceedings under her powerful and maternal protection, in our Basilica of the Vatican, before the ashes of the Blessed Peter, who, persevering in the strength of the rock, did not abandon the governance of the Church entrusted to him, and in whom all (1) II Corinthians 1:4.

[*Latin ed. p. 250*]

250 FROM THE ACTS OF THE PASTORS, solicitude perseveres in the custody of the sheep entrusted to them (1). Indeed, mindful that this ecumenical Council has been convened by Us, so that errors, which impiety has especially fostered in this age, may be eradicated, evils afflicting the Church may be remedied, morals may be improved, and the discipline of both clergy may be restored, We, joined with the sacred pastors of the Church, apply ourselves with diligence, and knowing with what care We ought to attend to all that pertains to the proper conduct, treatment, and completion of this important undertaking, We decree the following with Our Apostolic authority, and We command that they be observed by all in this Vatican Council. I. CONCERNING THE MANNER OF LIVING WITHIN THE COUNCIL. "Considering that every good gift, and every

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perfect gift, comes down from the Father of lights (2), and that nothing is more pleasing to the goodness of the Heavenly Father than to give the spirit of grace to those who ask Him (3), We, as We have already done through Our Apostolic Letters (4), given on the eleventh of April of this year, have reserved the sacred treasures of this Church for the faithful during the occasion of this Council; therefore, We not only strongly exhort those same faithful to strive, purifying their conscience from dead works, to serve the living God (5) through prayers, supplications, fasts, and other acts of piety: but We also commanded that the light and help of the Holy Spirit be implored daily throughout the Catholic world in the celebration of the holy Sacrifice of the Mass, so that this Council may have a prosperous outcome from the Lord, and that salutary fruits may be obtained for the holy Church. "Renewing and confirming these exhortations and prescriptions, We furthermore command that, during the continuance of this venerable Synod in the churches of this our beloved City, on each..."

(1) St. Leo the Great, Sermon 2 on the Anniversary of his Assumption.

(2) James 1:17.

(3) Luke 11:13.

(4) Our Letter of April 11, 1869.

(5) Epistle to the Hebrews 9:14.

[*Latin ed. p. 251*]

On the 251st day of the Vatican Council, and at the hour which seems most fitting for the faithful people, other prayers, besides the Litany, which have been composed for this purpose, should be recited. "But something greater and more excellent must be offered by the Bishops, and by all those who are considered to be in the priestly order, who are celebrating this Council, for as ministers of Christ and dispensers of the mysteries of God, they ought in all things to give an example of good works in doctrine, in integrity, in gravity, speaking the word of truth without reproach, so that he who is opposed may truly fear, having nothing evil to say about us" (1). Therefore, following the example of the ancient Councils, and especially of Trent, we urge them all in the Lord to diligently attend to prayer, to the sacred readings, and to meditations on heavenly things; to frequently participate in the Holy Sacrifice of the Mass, as much as is possible; to keep the mind and soul free from worldly cares; to maintain modesty in their conduct, temperance in their food, and religion in all their actions. Let discord be absent from their hearts, let envy and contention be absent, but let all be governed by charity, which, among all the virtues, excels; so that, with charity reigning and flourishing, it may be said of this sacred assembly of Bishops: "A gradual canticle of David. Behold how good and how pleasant it is for brethren to dwell together in unity:" (2). Finally, let the Fathers be vigilant in the care of their families, and let them demand

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Christian and holy discipline from those under their charge, remembering how the Apostle Paul commands the Bishops, that they be diligent in the management of their own house" (3).

II. OF THE RIGHT AND THE MANNER OF PROPOSING. "Although the right and the duty of proposing the matters which must be treated in the holy ecumenical Council, and of asking the opinions of the Fathers on these matters, belong only to Us, and to this Apostolic See, nevertheless, we not only desire, but also urge, that if anyone among the Fathers of the Council has something to propose which they believe may contribute to the public good, they may freely express it."

(1) *Epistle to Titus*, 1:7.

(2) *Psalm* 132:1.

(3) *I Timothy*, 3:4.

[*Latin ed. p. 252*]

252 FROM THE ACTS concerning those who desire it. Now, since we carefully examine this very matter, and if it is not perfected at the proper time and in the proper manner, it can, to no small degree, hinder the order of conciliar actions; therefore, we decree that such proposals must be prepared in such a way that each one is put in writing, and privately presented to a special Congregation of certain individuals, namely, Most Reverend and Most Reverend Fathers, Cardinals of the Holy Roman Church, and to a Synod of Fathers to be appointed by Us: 2° that it truly regards the common good of Christendom, and not merely the benefit of one or another diocese; 3° that it contains reasons for which it is considered useful and opportune; 4° that it contains nothing that is contrary to the constant teaching of the Church, and its inviolable traditions. "The aforementioned special Congregation will carefully examine the proposals presented to it, and will submit its opinion regarding their admission or rejection to Our judgment, so that We may then, with mature consideration, decide whether they should be referred for deliberation by the Synod.

III. CONCERNING WHAT MUST BE KEPT SECRET IN THE COUNCIL. "Here, prudence advises Us to command that the bond of secrecy, which in previous Councils has not infrequently been required, due to the gravity of the matters discussed, must be observed in all the actions of this Council. For if ever any caution was necessary at this time, it is now, when every opportunity is exploited by malice to slander the Catholic Church and its doctrine, and by impious forces armed with many means of harming. Therefore, We command all and each of the Fathers, officials of the Council, theologians, experts in the Sacred Canons, and all others who, in any way, offer their services to the aforementioned Fathers or officials in the affairs of this Council, that they do not reveal, nor disclose to anyone outside the Council, the decrees and all other matters that are presented to them

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for examination, nor the discussions and the opinions of individuals; We also command that the officials of the Council who are not endowed with episcopal dignity, and all others who, by reason of any ministry requested by Us, are included in the conciliar discussions,

[*Latin ed. p. 253*]

VATICAN COUNCIL: 253 members must take an oath to faithfully perform their duties and to maintain the confidentiality of all matters prescribed above, as well as those matters specifically entrusted to them. IV. ORDER OF PROCEEDINGS AND THE AVOIDING OF ANY PREJUDICE. "Since it is of great importance for preserving the tranquility and harmony of minds that each one faithfully and modestly observe the order of his dignity in all acts of the Council; therefore, in order to prevent occasions for offense as much as possible, we prescribe the following order among the various dignities. "First place will be held by the Most Reverend and Reverend Fathers, Cardinals, Bishops, Priests, and Deacons; second, by Patriarchs; third, by Primate Bishops, by Our special indulgence, according to the order of their promotion to the Primatial grade. But we grant this only for this occasion, and so that from this Our concession, no right should be given to the Primates themselves, nor taken away from others. Fourth place will be held by Archbishops, according to the order of their promotion to the Archbishopric; fifth, by Bishops, likewise according to the order of their promotion; sixth, by Abbots of Nullius Diocese; seventh, by Abbots General, and other Generals and Superiors of Religious Orders, in which solemn vows are professed, even if they are called Vicars General, provided that in fact they legitimately preside over their entire Order with all the rights and privileges of the highest superior. "Furthermore, following the discipline and practice of previous Councils, we decree that, if it should happen that some are not seated in their proper place, and even express opinions under the guise of a plea, attend Congregations, and perform other acts during the Council, no prejudice should be generated against anyone for this reason, nor should anyone acquire a new right (1). (1) Council of Trent, Session II, Decree on the manner of living, § Moreover.

[*Latin ed. p. 254*]

254 FROM THE ACTS V, CONCERNING JUDGES OF EXCUSES AND COMPLAINTS. "That the treatment of more serious matters, which ought to be discussed or carried out in this most holy Synod, may be hindered or delayed as little as possible due to the knowledge of causes concerning individuals; we decree that the Synod itself, through secret ballots, shall choose five of the Fathers to be Judges of Excuses, who shall be responsible for receiving the excuses and requests of absent Prelates, as well as those of those who, before the Synod is dismissed, believe they have a just reason to depart, and to administer them according to the rules of

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the Synod and the Holy Canons; and after they have done so, they shall not decide anything concerning these matters, but shall report everything to the general Congregation. Furthermore, we decree that the same Synod shall likewise, through secret ballots, choose five other Fathers to be Judges of Complaints and Controversies. "These, for their part, shall strive to settle all controversies concerning the order of seating, or the right of precedence, and any others that may arise among those assembled, through a summary and, as it were, economical judgment, so that no prejudice may be caused; and if they are unable to settle them, they shall submit them to the authority of the general Congregation. VI. CONCERNING THE OFFICERS OF THE SYNOD. "Moreover, it is also of great importance that necessary and suitable ministers and officials be appointed, according to the conciliar custom and discipline, to properly and legitimately carry out all the acts in this Synod; considering this, we, mindful of such ministries, choose and appoint the following men: 1°. General Custodians of the Synod, the most beloved sons John of Columna and Dominic of Orsini, Roman Princes, Assistants to Our Pontifical Throne. 2°. Secretary of the Synod, the Venerable Brother Joseph, Bishop of St. Hippolytus; and to him we add, with the office and title of Under-Secretary, the most beloved son Lewis of Jacobini, from Our..."

[*Latin ed. p. 255*]

OF THE VATICAN COUNCIL: 255 Protonotaries of this Apostolic See, as well as assistants, chosen sons Canon Camillo Santori and Canon Angelo Iacobini. 3°. Council Notaries, chosen sons Luke Pacifici, Aloysius Colombo, John Simeoni, Aloysius Pericoli, and Dominic Bartolini, Our own and Protonotaries of this Apostolic See, to whom We add the chosen sons Salvatore Pallottini and Francis Santi, Advocates; who will assist the aforementioned Notaries. 4°. Scrutineers of the Votes, chosen sons Aloysius Serafini and Francis Nardi, Auditors of the Causes of Our Apostolic Palace; Aloysius Pellegrini and Leonard Dialti, Clerks of Our Apostolic Chamber; Charles Cristofori and Alexander Montani, Assessors of the Sacred Congregation of Justice; Frederick de Falloux du Coudray, Regent of Our Apostolic Chancery, and Lawrence Nina, Abbreviator from the larger park. These eight scrutineers, however, will be divided into four distinct groups, and will proceed to receive the votes in such a way that two groups will go to one side of the Council Hall, and the other two to the other side, and furthermore, each group must have with it one of the Notaries, while they are performing their duties. 5°. Proctors of the Council, chosen sons John Baptist de Dominicis-Tosti, and Philip Ralli, Advocates of the Holy Consistory. 6°. Masters of the Ceremonies of the Council, chosen sons Aloysius Ferrari, Our domestic Prelate and Prefect, and Pius Martinucci, Camillo Balestra, Remigius Ricci, Joseph Romagnoli, Peter Joseph Rinaldi-Bucci, Anthony Cataldi, Alexander Tortoli, Augustine

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Accoramboni, Aloysius Sinistri, Francis Riggi, Anthony Gattoni, Balthasar Baccinetti, Caesar Togni, Roch Massi, Our own, and Ceremonial Clerks of this Apostolic See. 7°. Assigners of places, chosen sons Henry Folchi, Prefect, and Aloysius Naselli, Edmund Stonor, Paul Bastide, Aloysius Pallotti, Our intimate Chamberlains, and the chosen sons Scipio Perilli, Gustav Gallot, Francis Regnani, Nicholas Vorsak, and Philip Silvestri, Our honorary Chamberlains.

[*Latin ed. p. 256*]

256 FROM THE ACTS OF THE FIVE GENERAL CONGREGATIONS OF FATHERS. "Turning our attention to those matters which concern the order of the General Congregations, we decree and determine that, in those General Congregations which precede the public sessions, five of Our Most Reverend Fathers, Cardinals of the Holy Roman Church, shall be present in Our name and with Our authority, and for this purpose, we choose and appoint the Venerable Brother, Our Cardinal, Bishop Charles of the Holy Roman Church, called Sabinensen De Reisach, and Our beloved sons, Cardinals of the Holy Roman Church, the Reverend Antoninus, holding the title of the Most Holy Four Crowned Martyrs of Lucca, Joseph Andrea, holding the title of Saint Jerome of Illyria, called Bizzarri, Aloysius, holding the title of Saint Lawrence in Panisperna, called Bilio, and Our beloved son, Cardinal Deacon Hannibal of the Holy Roman Church, called S. Mariae in Aquiro Capalti. "These Presidents, besides other matters pertaining to the proper conduct of these Congregations, shall see to it that, in the matters to be discussed, the beginning be made with the discussion of those things which pertain to the faith, and then it will be entirely proper for them to hold consultations on matters of faith or discipline, as they shall judge to be fitting. "Moreover, from the time when We issued the Apostolic Letters to convene this Council, We have taken care to summon theologians and experts in ecclesiastical law from various regions of the Catholic world to Our beloved city, so that, together with other learned men of this city and experts in these disciplines, they may contribute to the preparation of matters pertaining to the purpose of this General Synod, and thus a more expeditious path may be opened for the Fathers in the discussion of matters; therefore, We desire and command that the drafts of decrees and canons prepared by these men, which We have reserved for the knowledge of the Fathers, without Our approval, be submitted to those same Fathers assembled in the General Congregation for examination and judgment. Therefore, with the aforementioned Presidents taking care, several days before the General Congregation is held, drafts of the decrees and canons, on which action will be taken in the Congregation convened, shall be printed and distributed to each Father, so that they may devote diligent

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consideration to them in every respect, and what they..."

[*Latin ed. p. 257*]

257. The sentences of the Vatican Council must be carefully considered. If any of the Fathers wish to deliver a discourse in the Congregation itself regarding the proposed schema, in order to maintain the proper order among the speakers according to their respective rank, it will be necessary for them to inform the Presidents of their intention to speak, at least the day before the Congregation itself. After hearing the discourses of these Fathers, if others also wish to speak in the same assembly, they will be permitted to do so, provided they first obtain permission from the Presidents, and in the order that their rank requires. "Indeed, if the schema presented in the Congregation exhibits no difficulties, or only minor difficulties that can be easily resolved in the assembly itself, then there is no delay in establishing, after the discussions have been concluded, the formula of the conciliar decree or canon in question, by obtaining the votes of the Fathers. But if, concerning the aforementioned schema, such difficulties arise, such that, with opinions divided, there is no way to resolve them in the assembly itself, then the following procedure will be adopted, as we shall state below, in order to provide for this matter in a stable and appropriate manner. We therefore decree that, from the very beginning of the Council, four special and distinct Congregations, or Deputations, be established, of which the first shall deal with matters pertaining to the faith, the second with matters of ecclesiastical discipline, the third with matters concerning the Religious Orders, and the fourth with matters of the Oriental Rite, and that these Congregations shall know and examine these matters while the Council is in session. Each of the aforementioned Congregations or Deputations shall consist of twenty-four Fathers, who shall be elected by the Fathers of the Council through secret ballots. Each of these Congregations or Deputations shall be presided over by one of the Most Reverend Fathers, a Cardinal of the Holy Roman Church, designated by Us, who shall add to his Congregation or Deputation one or more experts in theology or canon law from among the Council Fathers, as he deems appropriate for the benefit of his Congregation or Deputation, and he shall appoint one of them to serve as Secretary for the same Congregation or Deputation. Therefore, if it should happen, as we have indicated above, that the question regarding the proposed schema, which arose in the general Congregation, cannot be resolved, then the Presidents of the same general Congregation will ensure that the schema in question, together with the objections raised, is submitted for examination to that special Deputation, to which, according to the assigned categories of matters to be treated, it pertains.

[*Latin ed. p. 258*]

258. After the acts have been deliberated upon, their report shall be pub-

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lished by the printers for the consideration of the Fathers, according to the method prescribed above, so that, if nothing further obstructs, in the next general Congregation, with the votes of the Fathers requested, the formula of the conciliar decrees or canons may be established. The votes of the Fathers shall be taken orally, but in such a way that they also pronounce them in writing.

VIII. OF PUBLIC SESSIONS. "The celebration of public sessions now requires that we consider appropriately the matters and actions to be properly conducted therein. Therefore, in each public session, with the Fathers present in their proper place and order, and with the ceremonies strictly observed, which are contained in the ritual instructions to be given to those same Fathers by order of Ours, the formula of the decrees and canons established in the previous general Congregations shall be read aloud and clearly, at Our command, in the following order: first, the canons concerning the dogmas of the Faith, then the decrees concerning discipline, and these shall be introduced with the solemn preface that Our predecessors have been accustomed to use in such conciliar proceedings, namely: "The Bishop Pius, Servant of the Servants of God, with the approval of the Holy Council, for the perpetual memory of this matter." Then the Fathers will be asked whether the canons and decrees read are pleasing to them; and immediately the scrutineers of the votes will proceed, according to the method established above, to receive the votes individually and in order, and to record them accurately. In this matter, We declare that the votes must be pronounced in these words: "it pleases" or "it does not please"; and We also decree that it is not permissible for anyone to be absent from the session for any reason, and to send their vote in writing [to the Council]. After the votes have been collected, the Secretary of the Council, together with the aforementioned scrutineers, will attend to carefully examining and counting them at Our Pontifical Cathedral, and will report on them to Us; and then We shall pronounce Our supreme judgment, and We shall order that it be announced and promulgated, using the following solemn formula: "The decrees just read have pleased all the Fathers, with no one dissenting; or (if any have dissented) with the exception of so many; and We, with the approval of the Holy Council, thus decree and determine."

[*Latin ed. p. 259*]

"We, having convened and sanctioned the Council, decree that it be read aloud." After all these matters have been completed, the Promoters of the Council shall request the present Protonotaries to prepare one or more documents concerning all that has been done in the Session. Finally, on the day appointed for the next Session by Our mandate, the assembly of the Session shall be dismissed.

IX. CONCERNING NOT DEPARTING FROM THE COUNCIL. "To all the Fathers of the Council, and to all others who ought to attend it, We

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command, under the penalties prescribed by the Holy Canons, that no one of them, before this Holy, General, and Œcumenical Council of Vatican has been duly concluded and dismissed by Us, shall depart, unless the cause for departure has been known and approved according to the standard defined above, and permission to depart has been obtained from Us.

X. APOSTOLIC INDULGENCE REGARDING NON-RESIDENCE FOR THOSE ATTENDING THE COUNCIL. "Since all those who are obligated to participate in the proceedings of the Council are serving in this universal matter of the Church: Following also the example of Our Predecessors (1), We, with Apostolic benevolence, grant that Bishops and others having the right to vote in this Council, and all others who are contributing to this Council in any way, may receive the fruits, revenues, proceeds, and daily distributions of their benefices, except for those distributions which are said to be made during the present time; and We grant this while the Synod continues, and until each one attends or serves in it.

"We will and command these things, decreeing that these Our Letters and whatever is contained in them, be observed by all and each to whom they apply, respectively and inviolably."

(1) Paul III, Brief, January 1, 1546; Pius IV, Brief, November 25, 1561.

[*Latin ed. p. 260*]

From the Acts, number 260. Notwithstanding any special and individual matters worthy of mention and exemption, to the contrary of whatever may be. "Given in Rome, at St. Peter's, under the Fisherman's Ring, on the 27th of November, in the year 1769. In the twenty-fourth year of Our Pontificate." N. Card. PARACCIANI GLARELLI. CONCERNING THE FIRST GENERAL AND PUBLIC SESSION HELD ON THE 8TH OF DECEMBER, 1869, IN THE COUNCIL HALL WITHIN THE VATICAN BASILICA. "Notification to be made by a messenger, with a copy also left at the residence." "On Thursday, the 8th of December, in the year 1869, on the feast of the CONCEPTION, at the Octave hour, half an hour before noon, the solemn celebration of the Vatican Ecumenical Council will begin, from the chapel located above the portico of the Basilica of St. Peter, up to the Basilica. "At the appointed hour, all shall assemble at the Apostolic Palace in the Vatican. "The Most Reverend and Right Reverend Cardinals, and the Most Reverend Patriarchs, in the halls of the vestments: The Most Reverend Primates, Archbishops, Bishops, and Abbots, who have a place in the Council by privilege, shall put on the sacred vestments appropriate to their order and rite, both Latin and Eastern, and if Latin, of the color white with miters: namely, the Cardinals in silk damask, the others of the Latin rite in linen, and those of the Eastern rite according to their custom; and they shall immediately proceed to the chapel located above the portico of the Basilica of St. Peter, awaiting the arrival of Our Most Holy Lord Pope Pius IX. "The First Cardinal Priest, two Cardinal Deacons of the Pope, and the Cardinal

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Deacon who will read the Gospel of the IMMACULATE BLESSED VIRGIN MARY.

[*Latin ed. p. 261*]

At the Vatican Council, before the commencement of the conciliar proceedings, two bishops, attending to the book and the candle, and the Apostolic Subdeacon, Auditor of the Sacred Rota, will, in the Pauline chapel, prepared for the use of the Sacristy, don white vestments appropriate to their rank, with the exception of the Cardinal Priest, who will wear a pluvial; and HIS HOLINESS will be preceded by two Apostolic Protonotaries, wearing caps, and by the Acolyte of the Signature, wearing a zucchetto over his rochet. "HIS HOLINESS, having put on the sacred vestments, and wearing the precious mitre, will proceed to the aforementioned chapel, and after having intoned the hymn *Veni Creator Spiritus*, and completed the first verse, the supplication will begin, and then all the sacred actions will be performed exactly as prescribed in the Order and Method for celebrating the Council. "THE MOST HOLY FATHER, having entered the Basilica, will descend from the litter and, near the main altar, will adore the MOST AUGUST SACRAMENT, exposed; and after the hymn is finished, he will sing verses and prayers, and then will proceed to the conciliar hall, and the Mass will be celebrated by the Most Reverend and Right Reverend Cardinal, Dean of the Sacred College, of the MOST HOLY CONCEPTION OF THE BLESSED VIRGIN MARY, with a prayer for the HOLY SPIRIT. "After the Cardinal celebrant has said the prayer *Placeat* at the end of the Mass, the Most Reverend Archbishop, the Orator requested by HIS HOLINESS, will, having received the Indulgence, address the Fathers from the platform, and then will publicly announce the Indulgence. "HIS HOLINESS, having imparted the blessing, will lay aside the pluvial and will put on all the sacred vestments, as if he were about to celebrate a solemn pontifical Mass. "Then, after the obedience has been performed, the conciliar prayers will begin, and after the verse *Benedicamus Domino* has been sung, all those who are not required to attend the conciliar session will leave the hall, and the doors will be closed. "After the session has concluded, and the doors have been opened, HIS HOLINESS will intone the hymn *Te Deum*. "Therefore, all and each of the Most Reverend and Right Reverend Lords, the Sacred College Cardinals, the Most Reverend Lords, the Patriarchs, Primates, Archbishops, Bishops, as well as the Abbots, and the supreme superiors of the Congregations and Regular Orders, who, by Apostolic concession, have a place in the Vatican Council, are summoned.

[*Latin ed. p. 262*]

262 FROM THE PROCEEDINGS: "Furthermore, the Vice-Chamberlain, the Prince of the Throne, the Guardian of the Council, the Royal and Imperial Auditor, and the Treasurer; the Prelate presiding over the Papal house-

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hold; the Senators and Conservators of the City; the Master of the Holy Hospital; five Apostolic Protonotaries from among the participants; four Auditors of the Rota; two Clerks of the Apostolic Chamber; all those who vote in the Signature; two Abbreviators from the Major Park; and the Officials of the Council, are to be included." "Aloysius Ferrari, Apostolic Protonotary, Prefect of Ceremonies." With all things arranged properly for the public and solemn celebration, matters proceeded according to that notification. But on that day, as the feast of the Immaculate Virgin approached, and as all the hearts of the faithful rejoiced, the entire city, greatly increased by a multitude of peoples from various tongues, was ablaze. There was but one desire among all, and one voice: the beginning of the Vatican Council! The faithful, with their hearts filled with devotion, blessed the Lord, for the very words spoken, the expression of the face, the movement of the eyes, and the cheerful modesty of this person, testified that they were the sentiments of all Christians; and many, unable to contain what they felt in their hearts, seemed to weep, imploring the help and assistance of the Immaculate Mother of God. The sky, indeed, was not clear on that day, as if it were lamenting all the blasphemies that were being uttered or prepared by those who profaned the Christian name, especially in Italy, against the most holy religion, against the Supreme Pontiff, and against the ecumenical Council. The Temple of the Princes of the Apostles, with its prodigious vastness, could scarcely have contained, even before the appointed hour, the multitude of people who were gathering. What was accomplished will be evident from the prescriptions that we will relate; and we will not fail to note, in the Method of celebrating the Council, which we will present below, if anything of greater importance occurred than what is prescribed.

[*Latin ed. p. 263*]

268. The order of the Vatican Council, excerpted primarily from the ceremonial regulations of the Holy Roman Church, concerning the celebration of the Ecumenical Council in the Holy Basilica of the Vatican, by order of His Most Holy Lord Pope Pius IX, Bishop of the Catholic Church: "On the eighth day of December, on the feast of the Immaculate Conception of the Blessed Virgin Mary, at the hour to be indicated, the Most Reverend and Most Illustrious Cardinals, and the Most Reverend Patriarchs, Primates, Archbishops, Bishops, and Abbots who have a place in the Council, shall assemble in the designated halls, and having put on the sacred vestments of their own order, of the color white, and miters, they shall immediately proceed to the chapel prepared above the portico of the Vatican Basilica, awaiting the arrival of the Supreme Pontiff. "A solemn act of devout supplication shall begin from the aforementioned chapel to the same Basilica, with both the secular and regular clergy standing here and there (1). The Supreme Pontiff, wearing a rain cape, having removed his miter, and kneeling, shall intone, with the choir of singers following, the hymn: *Veni

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Creator Spiritus*, etc. "After the first verse has been completed, the Pontiff, and the others shall rise, and the Supplication shall be arranged in the customary manner before the pontifical Cross, with the chaplains, singers, and Prelates of the Pope, wearing the mozzetta over the rochet, in the number prescribed, as well as the thurifer and assistants. After the Cross, carried by the Apostolic Subdeacon, between two Acolytes, shall follow the Abbots, Bishops, Archbishops, Primates, Patriarchs (all of the Latin rite, with simple miters of linen), the Cardinals (with silk and damask miters), the Senators with the Conservators of the City, the Vice-Chamberlain of the Holy Roman Church, with a cape on the right of the Prince of the Papal Throne, and the Supreme Pontiff with his miter. (1) The clergy who were to be present had been designated by an edict of the Most Eminent Cardinal Vicar, so that all ecclesiastical colleges and regular communities would have at least their representatives present.

[*Latin ed. p. 264*]

264 Accompanied by precious ornaments, and a palanquin carried under a baldachin with fans, and the usual retinue, and also by eight chaplains whose harmonious singing intoned the prescribed hymn. "Following are the Auditor and the Treasurer of the Sacred Congregation, the Prefect of the Pontifical House, Apostolic Protonotaries from among the participants, Generals both of Congregations and of Regular Orders, and Officials of the Council. "Meanwhile, when the hymn is to be repeated, omitting the first verse and the conclusion, when the Supreme Pontiff, having arrived at the altar, where the Most Holy Sacrament will be exposed, and having uncovered his head, has knelt. "Having completed the hymn, the Pontiff, still kneeling, will say: "Protect us, O God, and look upon the face of Thy Christ. - "Send forth Thy Spirit, and they shall be created. - Ps. 103. And Thou shalt renew the face of the earth. - Ps. 103. "Send us help from Thy sanctuary. - Ps. 61. And from Sion, protect us. - Ps. 132. "Pray for us, O holy Mother of God, immaculately conceived, that we may be made worthy of the promises of Christ. - "O Lord, hear my prayer, and let my supplication come before Thee. - Ps. 143. "May the Lord be with you, and with your spirit. - 2 Timothy 4:22. "LET US PRAY. O God, who to us, under the marvelous sacrament, has left the memory of Thy Passion: grant us, we beseech Thee, to so venerate the sacred mysteries of Thy Body and Blood, that we may continually feel the fruit of Thy redemption. O God, who has enlightened the hearts of the faithful with the illumination of the Holy Spirit; grant us, in the same Spirit, to understand what is right, and always to rejoice in His consolation. O God, our refuge and strength, be present at the prayers of Thy faithful Church, Author of piety Thyself, and grant: that, through the intercession of the Blessed and glorious ever-Virgin Mary, Mother of God, with the Blessed Apostles Peter and Paul, and all the Saints, we may attain what we faithfully ask, effectively. May our actions,

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we beseech Thee, O Lord, be anticipated by Thy inspiration, and followed by Thy help: that all our prayer and work may always begin with Thee, and may be completed through Thee. Through our Lord Jesus Christ, Thy Son, who lives and reigns with Thee in unity with the Holy Spirit, God, forever and ever. Amen."

[*Latin ed. p. 265*]

VATICAN COUNCIL 265: "The Pontiff shall kneel, and two singers shall say: 'May the Almighty and merciful Lord hear us. And may He always protect us. Amen.' Then, proceed to the hall prepared for the Council, and all the Fathers, maintaining the order of patriarchal, primatial, archiepiscopal, and episcopal dignity among them, and taking into account the time of each promotion, shall be seated in their proper seats, and His Holiness shall celebrate Mass with the Most Reverend and Most Reverend Cardinal, Dean of the Holy College, for the Feast of the Immaculate Conception of the Blessed Virgin Mary, to which the prayer for the Holy Spirit shall be added. "In solemn obedience to the Most Holy Father, after the Gospel, the sermon shall be delivered, and all shall proceed as usual, omitting the circuits; but at the end of the Mass, after the Cardinal celebrant has said the prayer 'Placeat,' the Bishop orator, wearing his mitre, shall approach the pontifical throne, kiss the right knee of the Supreme Pontiff, and shall request an indulgence from him, and shall ascend the platform, and shall address the Fathers. (It is fitting to insert the following prayer here, which was recited by the Archbishop of Iconium, Aloysius Puecher-Passavalli, of the Order of the Minor Capuchins, in the most august assembly of the Fathers. It is of this nature): "MOST HOLY FATHER! "I, who have been chosen to begin a matter which, perhaps, in the entire world, is unlike any other, and which is more sacred and weighty than any other, confess that I, unworthy of this office, have immediately felt my spirit so overwhelmed that I have spared no effort to avoid anything that might deter me, except for the voice of Him who, with the terrifying splendor of all priestly majesty, presides over this our assembly, which has refreshed and strengthened me. Although, in neither age, nor intellect, nor authority, nor merits, am I comparable to those who are my colleagues in the episcopate, I nevertheless undertake this task, trusting especially in the words of the Holy Spirit: 'He who obeys the wise shall obtain victory.' (Proverbs 21:28). "There is also another reason which has not a little encouraged me to undertake this task. For, having breathed the vital air in that city in which the Catholic Church held its last Council, which was deservedly celebrated with so much praise, and which was considered by almost all to be a miracle; the thought occurred to me that I should..."

[*Latin ed. p. 266*]

266 From the Acts, the Providence by which God often works in the

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world is already well known, and this has stirred up this undertaking, the work of the supreme Vicar of Christ, above all others, so that, at least through my humble efforts, it might bring to your minds the most beneficial things for the Christian world, which were conferred upon it at that time, so that your spirits might be raised to great hope, and so that these things might be brought to fruition now, and that, through His secret counsel, everything might be arranged for the good of the Church. "In all these things, I myself am not the least encouraged, and I eagerly undertake the office which obedience, and the provident wisdom of God, have imposed upon me, and I hope that this universal Synod of the Church will be blessed by those Davidic words: 'Going they went and wept, casting their seeds; but coming, they shall come with joy, bearing their bundles.' (Ps. 125:7-8). For in these, both the sorrowful condition of our present time, and the joyful outcome of future events, seem to be painted with the clearest lines, and as if presented before my eyes to be held and considered. "I do not think that any of you, Venerable Fathers, can fail to see that the words which I have just spoken have been related in a particular and wise manner by the Church to the Apostles and to their divine mission. For you know well how, immediately after being filled with the gift of the Holy Spirit, which Jesus had promised them, they were, as it were, strengthened, and they set about preaching the Gospel throughout the entire world. You know how, enriched with the divine seed of heavenly doctrine from the very Word, they scattered it abundantly, wherever their feet led them, casting it upon the earth, which, from the very beginning of the world, when it was cursed through the work of man, had been transformed in forty centuries, as Leo the Great testifies concerning Rome itself, into a forest teeming with wild beasts and a most turbulent ocean (Serm. L on the Holy Apostles Peter and Paul). "You know, and I seem to see you, with my own eyes, contemplating these poor fishermen, destitute of all help, relying only on the faith that is inherent in human nature, who dared to navigate the vast seas, to penetrate lands either surrounded by solitude or inaccessible by mountains, to cross regions and provinces of immense size and distance, without staff or oar; and how could anyone have believed such things? Only for this one reason, namely, that the nations were partly barbarous in their humanity and in their customs...

[*Latin ed. p. 267*]

Of the Vatican Council and of the rites imposed; partly, that they might deliver from this scandalous and tyrannical yoke those who, though adorned with letters and sciences, were nevertheless steeped in vices and every kind of wickedness, and dedicate themselves to the Cross of the Lord! "In this matter, no one fails to perceive the labors that were undertaken, the sorrows that were endured, and finally, the injuries and persecutions that were suffered. My days would fail me if I wished to

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recount to you all these things, for they are innumerable, and I might almost say, inexpressible. What shall I say?" said Chrysostom himself, who had long contemplated and explored these matters. "What shall I say, or what shall I speak, when I consider your afflictions? I know not." How many souls did you sanctify? How many chains did you break? How many torments did you endure? How many curses did you receive? How did you carry Christ? How did you gladden the Church with your preaching? Truly, truly, I say, the royal Psalmist sang of the Apostles, that they went forth and wept, sowing their seeds. "But consider, Venerable Fathers, the completely wondrous effect of this weeping of the Apostles. For it was as, in the greatest droughts, a nocturnal rain, which, descending gently upon the parched earth, causes the grasses to sprout, the leaves to turn green, and the languishing flowers to lift their heads, opening their closed calyxes, by which, meanwhile, the air is filled with the sweetest fragrance and with a thousand delightful scents. For the seed of truth, sown in those barren fields, after having been watered by the tears of the Apostles, produced such abundant fruit, that, where before there was only horrifying sterility, there was now to be seen a wondrous fertility; and where only thorns and thistles sprang forth, now the fields blossomed forth abundantly, offering themselves to the hands of those who would reap them, and carry them in bundles to the Lord's granaries. "And this, without a doubt, Venerable Fathers, is what happened to the labors of the Apostles. For, seeing the abundance of the harvest, their tears were turned into joy, sorrow was banished by gladness, which certainly ought to comfort the soul of each one all the more, inasmuch as they had been plunged into such deep sorrow, and inasmuch as they hoped to receive a reward from these very fruits, when they encountered the Lord's vineyard: 'And those who come shall come with joy, carrying their bundles.'" Since this is so, I have no doubt, Venerable Fathers, that this present condition of yours, which recalls that of the Apostles,

[*Latin ed. p. 268*]

268 FROM THE ACTS of the Council. For I see you, coming from the most remote parts of the earth, to this gathering in Aoste, indeed with eagerness, but with brows furrowed, and with heads bowed, and with spirits weighed down by the terrible slaughter of souls, which the ancient enemy of the human race has already wrought, and which he prepares to inflict even more grievously in the future. I see you, therefore, arriving at this mystical assembly, so that, with counsel and strength conferred, you may draw more abundantly from it the seeds of truth and justice. And your expectation will not be in vain, and this is shown to you most clearly by the very gravity of the matters that will be discussed in this Synod.

Furthermore, may it be far from me to anticipate your most wise deliberations, but if, following the bright path already freely revealed by our

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most august Pope, I dare to affirm that to all of you is given the greatest opportunity of enriching, from that heavenly seed, the treasures of the Church. Let us consider how the Christian people, drawn away from the clear waters of the Savior into the foul and corrupted cisterns of errors, may be restored to those pure and inexhaustible waters; how the beneficial activity of the Church, whether clothed in new forms or strengthened with new aids, may become more vigorous, so that, according to the end for which it was instituted, it may penetrate previously untried lands, and open to itself new avenues, through which the Holy Spirit may more safely and easily pour forth its virtues and graces into the individual members of the Body of Christ; and how, finally, in one word, the spirit and life of Christians may be restored, so that they may shine with that divine light with which they were first seen on earth, when this our Religion, the fairest and most beloved daughter of God, descended from Mount Calvary, purified by the sacrament of water and blood, which flowed from the side of the Redeemer, destined to inherit the whole world.

Indeed, there is no doubt that this great assembly of ours will bring forth much fruit. For who can conceive, or measure, how much pastoral charity will emanate from this, as from another Pentecost? How much power of wisdom will erupt from this, when not only the feelings of any one mind, but also the very affections of the heart...

[*Latin ed. p. 269*]

Having been assembled by the Vatican Council, and considering the most serious needs of all humanity, will you diligently pursue and keenly examine these matters? "You, certainly, having been perfected in all things, and enriched with a great treasure of doctrine and virtues, will proceed to your respective dioceses. You will again visit the kingdoms of Europe, again the extreme regions of Asia and the islands of the ocean, again the regions of Africa and the Americas, and all who are inflamed by the fire of the Holy Spirit. You alone will be astute in seeking out farmers, to cultivate land that has hitherto been barren, to sow fields, to prune vines, so that they may either produce new fruits, or yield more abundant ones.

"But from this labor, Venerable Fathers, come bitter days, countless sorrows, and from this, those Davidic words will begin to be fulfilled in you: 'Going, they went and wept, casting their seeds.' For it is then, when you must apply your hands to the work, that it will become clear with what adversaries you must contend, and in what measure. From this, philosophers and, as they say, men of politics, princes and kings themselves, and even the people, will conspire together, so that the studies of your piety, and the benefits of your industry, may be rendered futile; and on the other hand, men, some openly professing atheism, others surrounded by the most foul hypocrisy, will move every stone, so that, if possible, the very Catholic religion may be overthrown from its foundations. Alas! What a war, how

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fierce and how long-lasting! Alas! What enemies, how persistent and how implacable! To this, add, and this is perhaps the greatest plague of all, the indifference of many, by which the Church of Christ is oppressed, and all its cults and fruits must, in a short time, become barren, and come to a horrible desolation, where only squalor and death widely prevail.

"And among these waves, I say openly, among these treacherous shoals, you must proceed, Venerable Fathers; among these storms, which threaten to cast everything headlong, you must navigate, as if on immovable rocks: thither your ship must be directed, your oars must be driven, and thither, above all, all your strength of spirit must be devoted, so that the safe harbor may be preserved, and the debt rendered to the head of the family, from whom it has been entrusted to you.

"And it is not surprising that things are so, since you yourselves, Venerable Fathers, are witnesses of this, not only by the example of others, but also, at least in part, by your own experience."

[*Latin ed. p. 270*]

270 From the accounts, you know that it is clear whether such a great undertaking can be brought to perfection, but rather, it cannot even be begun, without incurring a vast sea of punishments and sorrows. For it is truly necessary either to have never learned what the Mission of Christ signifies, and in what way the sublime mandate of the Bishops is carried out; or, which is entirely reprehensible, to be completely ignorant of how many and how great evils afflict the human race, so that one cannot, in fulfilling this office, even at the very beginning, perceive the dangers and contradictions to which one must be subject, or how a happy outcome can be hoped for, unless the soul is prepared in such a way as was the Doctor of the Gentiles, who openly declared of himself: "I fill up those things that are wanting of the sufferings of Christ in my flesh, for his body's sake, which is the Church" (Colossians 1:24). "But do, most esteemed Fathers, be of stout heart and be great! For if it is God's secret plan that the mystical seed of the evangelical doctrine cannot germinate or grow, or flourish with the beauty of leaves and the joy of flowers, unless it is constantly moistened and irrigated with the tears and blood of apostolic men, then it is also God's will that those tears, which are shed for the sake of justice and truth, may be abundantly repaid with pious and holy consolations from heaven, as it is written: "Blessed are they that mourn: for they shall be comforted!" (Matthew 5:5). For it is said of the disciples of Christ, and of other heralds of the Gospel, that they went forth weeping, sowing their seeds, and it is also said of the same, that they came, coming with joy, bearing their bundles. And if this second part of the prophetic words has, from the very beginning of the Church, fully fulfilled its effect, as we have seen, so that the Apostle could write: "For as the sufferings of Christ abound in us: so also by Christ doth our comfort abound" (2 Corinthians 1:5), then the same effect

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is clearly intended for you, provided that, moved by the same spirit as your predecessors, you bravely adhere to their sacred footsteps, knowing that, just as you are partners in sufferings, so also you will be in consolations (ibid. verse 7). "And that we are indeed about to attain the greatest reward for our labors even in this life, and that a great reward remains for us in heaven, is clearly demonstrated by the very manner in which this solemn assembly of the Fathers of all Christendom has been..."

[*Latin ed. p. 271*]

OF THE COUNCIL OF THE VATICAN 271. Who does not see that God, having begun this undertaking with such auspicious signs amidst all difficulties, wished to give us the surest indication of those things which we hope for in the future, provided that we ourselves do not hinder the stream of truth and justice, which will soon flow from the rock of the Vatican? And from this, may I be permitted, I beg you, to recall to you, without a feeling of piety, the great sorrows of the Father and the Sons. Indeed, we, having taken refuge in the sacred shadow of the Vatican, marveled at the immense ruins which Satan was gathering around us with great speed; we marveled at the most turbulent waves of impiety, which daily increased, and threatened this very refuge of peace; and therefore, all trembling and pale, we thought that we, too, sitting amidst the shattered ruins of the temple, were about to exhale our spirit with that lamentable voice of the brother of lovers: "Aleph. How doth the city sit solitary that was full of people! how is the mistress of the Gentiles become as a widow: the princes of provinces made tributary!" (Lam 1:1). But behold, a ray of purest light pierces the dense darkness, and almost revives our waning hope. For in the mind of our highest Hierarch, as the rudder of a ship is guided, the thought arises of convening elders and companions of faith, so that, the holy tabernacle of God, even in its most intimate sanctuaries and recesses, being assaulted by countless and formidable enemies, provision may be made as quickly as possible by the common consent of all. "This was at first like a cloud, which vanishes in the morning, and immediately, like a flash of heavenly lightning, it traverses the spaces, and quickly disappears. But that Spirit of the Paraclete, which proceeds from the Father and the Son, and eternally protects this august Chair, immediately vivifies it and fertilizes it with its sevenfold light: and, wondrous to say! that thought, like a mustard seed, which, as the Gospel testifies, is indeed the smallest of all seeds, but when it has grown, it is greater than all the herbs, and becomes a tree; so that the birds of the heavens come, and dwell in its branches (Matthew 13:32); that thought, I say, with the most effective power of the Paraclete, immediately bursts forth, grows, and, more quickly than can be said, becomes a giant. And behold, we are already gathered together in one place from all regions of the earth, in this immense Basilica, by the miracle of Christian genius; behold, we are at the tomb of the Prince of the

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Apostles, from which the perennial aura of episcopal virtues still breathes and flourishes; behold, we are at the place of Leo, of both Gregories, and of Chry-

[*Latin ed. p. 272*]

272 From the acts of martyrs, those burial mounds, from which one might still hear, after so many centuries, the eloquent stream bursting forth, the Catholic Church is again irrigated. But what should be even more consoling and penetrate the souls, behold, we are with the very person of Peter, who, present still and alive in his legitimate Successors, seems to resound with the same fervor of love and the same faith as before: "You are Christ, the Son of the living God"; and therefore, equally from Heaven, where He sits at the right hand of the Father, that sublime response of the Redeemer is heard anew: "And I say to you, that you are Peter, and upon this rock I will build My Church; and the gates of hell shall not prevail against it." "These things, Venerable Fathers, I urge you to recall, so that our confidence, nourished as it were by this, may flourish more abundantly, and our spirits may be inflamed with greater zeal to accomplish this work, namely this Synod, into which, I will not say the eyes of the people are now turned, but the hope of the entire world. Which, on the one hand, may bring you many and grievous afflictions for the sake of justice, and sometimes reduce you to great distress; on the other hand, it will also open to you the sweetest source of all consolations, and will pave the way for the most joyous triumphs. "Indeed, it is now your task to undertake this work with pain and sorrow; but the time will come, as we have the Son of God Himself as witness, when joy will occupy our mourning; for it is written: "Amen, amen, I say to you, that you shall lament and weep, but the world shall rejoice: and you shall be made sorrowful, but your sorrow shall be turned into joy" (John 16:20). "And I do not believe that this expectation will deceive you, if we constantly direct our minds towards the purpose of this ecumenical Council, which consists entirely in divine glory and the eternal salvation of souls; if we strive above all else that this, among so many things that adorn the venerable and magnificent face of Pius, may become the most brilliant gem; if, finally, the annals of the Church of posterity may one day commend, in golden letters, the peace of minds, the harmony of thoughts, the moderation of endeavors, the dignity of discussions, the equity of judgments, and the wisdom of all deliberations, having so thoroughly governed the hearts and minds of the Venerable Fathers, that what is now closed to us at the gates of Genoa, when it is again announced to the entire world;

[*Latin ed. p. 273*]

273. The Vatican Council. It has been seen by the Holy Spirit (Isaiah 44:3), that the very earth, having received the impulse of the Creator's Spirit, may recognize itself completely renewed, according to that which is written: "I

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will pour out my spirit upon you, and I will renew the face of the earth" (Psalm 104:30). "Indeed, with the particular intercession of the Blessed and most Holy Virgin Mary, whose Immaculate Conception is celebrated today with the greatest joy of the entire world, may the eternal Son of God, our Lord and Redeemer Jesus Christ, deign to grant to all of us, who live and reign with the Father and the Holy Spirit, eternal life. Amen."

After the prayer, the Indulgence will be granted. His Holiness, having laid aside his mitre, will stand before the Cross and say:

"May the name of the Lord be blessed.

- Forever and ever.

May our help be in the name of the Lord.

- Who made heaven and earth.

May the Almighty God bless you, the Father, and the Son, and the Holy Spirit. Amen."

The Most Reverend and Right Reverend Cardinal celebrant, with his ministers, will depart, reciting the Gospel of Saint John, and meanwhile, the Supreme Pontiff will sit, and the mitre will be placed upon him. Then, the Apostolic Subdeacon, prepared with a white tunic, will approach, carrying the caligae (shoes), which are customarily placed upon the feet of the Pontiff, while he recites the psalm: "How lovely is your dwelling place, O Lord of hosts!"

Afterwards, the Subdeacon will depart, and the Most Reverend and Right Reverend Cardinal Deacon, wearing the amictus (tunic), the alba (white robe), and the dalmatica (a long, flowing robe), will approach, because he is about to chant the Gospel, and also the Acolytes, one after another, will carry the sacred vestments, as if the Pope were celebrating Mass with a solemn pontifical rite.

When the Pontiff, having laid aside his mitre and pluvial (a type of cloak), puts on the pontifical vestments, and the Cardinal Deacon is ministering to him, all those who are wearing the sacred vestments, holding their mitres in their hands, will show obedience to the Supreme Pontiff; the Cardinals will kiss his hand, the Patriarchs, Archbishops, and Bishops will kiss his right knee, and the Abbots will kiss his foot.

Having completed this action, the Cardinal Deacon, standing to the right of the Pontiff, will rise and, in a loud voice, say "Orate" (Pray), and then both the Pontiff, seated before the prepared faldstool (a low seat), and the others, without mitres, in their own places, will kneel in prayer, turned towards the Altar. Then, rising, the Pontiff... (The text continues with a reference to Acts, volume V, page LUT. 18).

[*Latin ed. p. 274*]

274. Standing alone, with all others kneeling, he shall say this prayer in a fitting tone, namely: "We come to you, Lord Holy Spirit, we come indeed,

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held back by the enormity of sin, but we are especially joined to you in your name. Come to us, and be with us, and deign to descend into our hearts. Teach us what we ought to do, and show us what we must accomplish, so that, with your help, we may be able to please you in all things. Be the salvation, and the fulfiller of our judgments, who alone, with God the Father and his Son, possess the glorious name. Do not allow those who disturb justice to be just; do not draw us to the left through ignorance, nor let favor sway you, nor let the acceptance of gifts or persons corrupt you; but join us effectively to you alone by the gift of your grace, so that we may be one with you, and in no way stray from the truth, so that, gathered in your name, we may hold fast to justice with moderation in all things, so that here, from you, our minds may not differ in anything, and in the future, for good deeds accomplished, we may receive eternal rewards."

All respond: Amen.

"Then the Cardinal Deacon, rising from the left, turns towards the Fathers and says: Arise. All rise, and the singers shall sing the antiphon: 'Hear us, O Lord, for your mercy is good; according to the multitude of your tender mercies, look upon us, O Lord.'"

Again, the Deacon from the right, turning to the Fathers, says: "Pray." And likewise, all shall kneel and pray secretly for a while, until the Deacon from the left says: "Arise." And all shall rise.

Then, with everyone standing and the head uncovered, the Pontiff shall say the prayer aloud:

"We beseech you, O Lord, Paraclete, who proceeds from you, enlighten our minds, and instill in all, as your Son has promised, truth. Who lives and reigns with you in the unity of the Holy Spirit, God, forever and ever. Amen."

Upon its completion, all shall again kneel, and two singers shall begin the litanies, with all responding.

Kyrie eleison, etc. (And here follow the Greater Litanies, and upon reaching the strophe, as with the Lord Apostolic, and upon its completion, this order follows.)

[*Latin ed. p. 275*]

VATICAN COUNCIL 275: "The Pope, rising, wearing his mitre, and holding the Cross in his left hand in place of a pastoral staff, blesses the Synod, saying: 'I beseech you, that you may deem it fitting to bless this holy Synod and all ecclesiastical ranks.' 'I beseech you, that you may deem it fitting to bless and govern this holy Synod and all ecclesiastical ranks.' 'I beseech you, that you may deem it fitting to bless, govern, and preserve this holy Synod and all ecclesiastical ranks.' 'Then, the Pope again prostrates himself, and the Litany is recited. 'That the enemies, etc. (until the final Kyrie eleison).' 'Then, all rise, and the Pope, at the Altar,

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says: 'LET US PRAY. The Deacon on the right says: 'Let us bend our knees,' and the Deacon on the left says: 'Let us rise.' 'Grant we beseech Thee, O merciful God, to Thy Church, that, being gathered together by the Holy Spirit, it may be disturbed by no hostile incursion: Through our Lord Jesus Christ, Thy Son, who lives and reigns with Thee in the unity of the same Holy Spirit, God, forever and ever. Amen.' 'Then, the Apostolic Subdeacon and the Cardinal Deacon, who will chant the Gospel pertaining to the matter at hand, take the maniple. The Pope kisses the hand of the Cardinal, who then places incense in the censer, with a Cardinal Priest vested in a cope attending. Meanwhile, the Deacon, having received the book from the Altar, together with the Subdeacon, the lights, and the customary ceremonies, asks for the Pope's blessing, and chants the Gospel; upon its completion, the Pope kisses the book and it is incensed in the usual manner. 'Then, all, wearing their mitres, sit down. The Pope then encourages the Fathers with fitting words to enact appropriate decrees, and afterwards, rising without his mitre, and prostrating himself before the faldstool, he chants the hymn: 'Veni Creator Spiritus,' while all, at that time, bend their knees, until the first verse is completed. Then, all rise, standing without their mitres, and the singers continue the hymn. 'In fine, the Pope rises, saying: 'Emitte Spiritum tuum et creabuntur. And you shall renew the face of the earth. LET US PRAY: O God, who has taught the hearts of the faithful by the illumination of the Holy Spirit, grant us, in the same Spirit, to know what is right, and to rejoice always in His consolation. Through our Lord Jesus Christ.'"

[*Latin ed. p. 276*]

276 FROM THE ACTS: "The Son of your love, who lives and reigns with you in the unity of the same Holy Spirit, God, for all ages of ages. Amen." Two singers shall say: "Benedicamus Domino." "Deo gratias." "The Prefect of the Ceremonies, in a loud voice, shall say: 'Let all who have no place in the Council depart.'" Then, by order of the Most Holy Father, the Decrees shall be recited aloud from the platform, and then the Fathers shall be asked whether they approve of them; and immediately, scrutineers shall proceed to receive the votes, which the Fathers must pronounce with the words "PLACENT" or "NON PLACENT," so that the Eminents and Reverend Cardinals, as well as the Reverend Patriarchs, Primates, Archbishops, and Bishops, observing the order of their dignity and rank, shall express their vote while seated with their miters; while Abbots, and Generals of Congregations and Orders of regular canons, shall stand, with their heads uncovered, and, having made a genuflection before the Supreme Pontiff. The scrutineers, having collected the votes, will diligently sort them out and count them at the pontifical throne, and will report on them to the Supreme Pontiff, who will pronounce his final judgment, and will order it to be promulgated, using the following solemn formula: "The Decrees which

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have just been read have pleased all the Fathers, without any dissent (or, if any have dissented, except for this number), and with the sacred Council approving them, we decree, we establish, and we sanction them, as they were read." "After all these things have been completed, the Promoters of the Council will request the present Apostolic Protonotaries to prepare one or more instruments, regarding all and each of the things accomplished in the Session, with witnesses being called upon." Finally, on the day of the second Session, indicated by order of the Supreme Pontiff, the Pontiff himself, without his mitre, will intone the hymn: "Te Deum laudamus." "Which the singers will alternate with the clergy. After the hymn is finished, the Pontiff, still standing, will say: "Dominus vobiscum." "Et cum spiritu tuo. OREMUS. God, whose mercy has no limit, and whose goodness is an infinite treasure, we give thanks to your most holy Majesty for the gifts conferred, and we implore your constant clemency; that you, who grant the requests of those who ask, may not abandon those same ones in preparing them for future rewards. Through Christ our Lord. Amen."

[*Latin ed. p. 277*]

VATICAN COUNCIL, 277: "Then the Pope, assisted by the Cardinal Deacon who recited the Gospel, will remove the sacred vestments which are placed upon the altar, and will put on the mozzetta with the stole; and after a brief prayer said over the faldstool, he will rise, bless the Synod, and depart. "Immediately afterwards, all the Fathers will, in the places prepared for them, remove their sacred vestments, and will likewise depart. "In all the subsequent sessions, these things shall be observed, except for those things which are noted. "1. There will be no Supplication, and therefore all the Cardinals and Fathers, at the hour indicated for each occasion, will assemble at the Basilica of St. Peter, where each one, after adoring the Most Holy Sacrament in the designated place, as the Supreme Pontiff directs, will put on the sacred vestments of the color red, unless otherwise noted, and will assemble in the hall of the Council, and after kneeling in a brief prayer before the Cross, will take their assigned seats. "1. The Mass will be celebrated without singing, except for the 'Spiritus Sanctus,' according to the rubrics: neither will there be a prayer to the Fathers, nor will obedience be given to the Supreme Pontiff." ALOISIUS FERRARI, Protonotary Apostolic, of Càerem, Prefect, METHOD FOR OBSERVING THE PRIMARY SESSIONS OF THE ECUMENICAL COUNCIL, WHICH WILL BE CELEBRATED IN THE PATRIARCHAL BASILICA OF ST. PETER IN VATICAN. "1. The entire clergy of the city will be arranged in order, through the royal staircase, the portico, and the Basilica. "1. The Most Eminent Cardinals and the Most Reverend Fathers will proceed to the Vatican Palace through the staircase located in the main courtyard of the same Palace, which leads to the Library and the Museum. "1. In the designated halls, each one will put on his own sacred vestments. The Most

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Eminent Cardinals will put on the sacred vestments in the other hall of vestments, that is, in the one in which the Supreme Pontiff sometimes puts on his sacred vestments. The Most Reverend Patriarchs will put on their sacred vestments in the anteroom, and in this same hall, the Auditors of the Rota, the Clerks of the Camera, the Assessors of the Signature, and the Scribes will put on their superpellice. The Most Reverend Primates,..."

[*Latin ed. p. 278*]

278 FROM THE ACTS of the Archbishop, Bishops, and Abbots, the Pontifical vestments will be put on in the Julian ambulatory, which is attached to the Vatican Museum, near the halls mentioned above. 4. The chaplains, above the portico of the Basilica, immediately, the Most Eminent Cardinals with their attendants only, and the Most Reverend Fathers without any companions, will enter, and after a brief prayer, will take their places designated by the officials. 5. Prelates and other officials, wearing the garments due to them, also without any companions, will follow the chaplains and take their assigned places. 6. Two Most Eminent Cardinal Deacons, the eldest, the Most Eminent Cardinal Priest, two Protonotaries from among the participants, and two electors of the Signature for carrying the Papal vestments, will assemble in the Pauline chapel, which will serve as a sacristy. 7. The Apostolic Subdeacon for carrying the Papal cross, and two other electors of the Signature for the candelabra, will be present in the aforementioned Pauline chapel. Also present will be two Most Reverend Bishops for the book and candle. 8. The Supreme Pontiff will proceed to the aforementioned Pauline chapel, will be adorned with the sacred vestments, namely the amice, alb, cincture, and stole, and will place incense in the thurible, with a Cardinal Priest assisting him. Then he will put on the Pontifical cope and the precious mitre. 9. The Supreme Pontiff will enter the Basilica through the chaplains above the portico, and as he passes, he will bless the Fathers. 10. Before the faldstool, he will lay down the mitre, bend his knees, and pray for a short time. Then, still kneeling, he will, from the book offered to him by the Cardinal Priest, begin the hymn *Veni Creator Spiritus*, which the singers will follow, while all, meanwhile, bend their knees. 11. After the first verse, all will rise, and the Supreme Pontiff, having resumed his mitre, will sit in the palanquin. 12. The procession will be ordered. The Chamberlain, outside, number two. Secret chaplains from among the participants, number two. Consistorial advocates, Promoters of the Council, number two. Honorary ecclesiastical chamberlains, number two. Secret ecclesiastical chamberlains, number two.

[*Latin ed. p. 279*]

At the Vatican Council:

All the singers.

Abbreviators from the greater college, two in number.

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Scrutineers of the votes, two in number.

All those who cast votes, among whom are the two Scrutineers of the votes.

Clerks of the Apostolic Camera, two Scrutineers of the votes.

Auditors of the Rota, two Scrutineers of the votes.

The Master of the Sacred Hospital.

The Chaplain with the usual vestments of the Supreme Pontiff.

The Secret Chaplain with the simple mitre usual to the Supreme Pontiff.

The Thurifer of the Signatura, bearing the thurible.

The Apostolic Subdeacon, vested in sacred vestments, carrying the Papal Cross between two acolytes of the Signatura, who bear candelabra.

Abbots General, prepared.

Abbots of no diocese, prepared.

Bishops, prepared; in accordance with the order of their Archbishop's promotion, proceeding.

Primate.

Patriarchs, prepared.

Deacons, Presbyters, Cardinals, Bishops.

The Most Reverend Bishops, Archbishops, Primates, and Patriarchs will have with them one priest, or chaplain, vested in a cassock, and the Most Eminent Cardinals will have one priest, and in addition, a train-bearer in the procession.

The Most Eminent Cardinal Priest, vested in a pluvial, will proceed last in the procession among the Cardinal Priests.

Near the door of the chapel, each will put on his mitre.

The Senators and Conservators of the City, and other Dukes designated for the custody of the Pontiff.

The Vice-Chamberlain, vested in a cape, stands to the right of the Prince of the Custody of the Council.

Two Protonotaries from the number of participants, are Notaries of the Council, for the vestments of the Pope.

The Cardinal Deacon sings the Gospel in the synodal action, standing in the middle between the two Cardinal Deacons assisting.

[*Latin ed. p. 280*]

At the solemn ceremonies, two Masters of Ceremony, assisting the Pope, and the Pontifical Guard, dressed in their uniforms, carry the feretres (bier) from the Signatura's offices. Secret chamberlains, in large numbers, carry the flabella (plumes). The Dean of the Rota, as minister of the mitre, stands between two secret chamberlains and the clergy participating. The "armigeri," also called "tesserarii," walk on either side of the Supreme

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Pontiff. Eight singers intone the aforementioned hymn. The Auditor and the Treasurer of the Apostolic Chamber are present. The Prelate of the pontifical household, along with his officials, wear their caps. The remaining four protonotaries, along with the participants, include Subsecretaries of the Council, the Prefect of the chamber, and the Generals and Vicars General of the regular congregations. The Generals and Vicars General of the monastic orders or congregations, who have the right to wear the mitre, are also present. The Generals and Vicars General of the mendicant orders are present, all in their respective habits, and those who are regular clergy will only wear the biretta. The officials of the Council, namely two Assistant Secretaries and two Assistant Notaries, if assigned to the Supreme Pontiff's chamberlains, will wear a violet cassock with a similar upper garment. If they are merely secular clergy, they will wear a cassock. Last, after the officials, come the stenographers, also wearing a cassock (1).

(1) The stenographers, of whom mention is made in numerous Apostolic letters, are certain chosen young men from various seminaries and ecclesiastical colleges, who, in recent months, under the direction of the Reverend Virginio Marchése, a priest from Taurinensa, have diligently worked to acquire the skill of writing with the utmost speed, using agreed-upon signs to record everything spoken in Latin by anyone, while they are speaking. They perform their function in the Council, and are therefore called "servientes Patrum" (servants of the Fathers), and they maintain the following order: two stenographers are always present in the Council hall when their services are needed, and they write there for approximately six hours, after which they leave the hall with two other Subsecretaries, and they transcribe what the stenographers have written into the customary letters. Neither of these two writes simultaneously (lest, perhaps, the orator speaks slowly), but each writes almost half a line, alternating with the other, beginning with the word that the other ends.

[*Latin ed. p. 281*]

281. At the Vatican Council, each member, upon entering the Basilica, will immediately remove his hat, and, having approached the papal altar with a reverent genuflection before the Sacrament exposed upon that same altar, will enter the hall, and, having inclined before the altar's cross, will take the seat assigned to him by the designated officials: and all, standing with heads uncovered, will await the arrival of the Supreme Pontiff.

14. The chaplains of the Most Reverend Fathers, having made a respectful bow to them, will immediately proceed to the chapel of Saints Simon and Jude. These young men, along with their instructor, as with all the officials, have sworn to maintain secrecy, and will fulfill this obligation not in the pre-synodal assembly, but on the same day before the Secretary. The names of these individuals are as follows:

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From the Roman Seminary: the Reverend Anthony Cani from Castro, Bologna; Charles Leva, a Roman; and Julius Tonti, a Roman.

From the Pious Seminary: the Reverend Peter Capponi from Ascoli; Alexander Orsini from Tuders; and Alexander Volpini from Pisco Monte.

From the Illustrious College of Capranica: Charles Zei, a Florentine; and John Zonghi, from Fabriano.

Since it is fitting to mention the Illustrious College, which was founded in the year 1458 by Cardinal Capranica, and which is the oldest of all, it is appropriate here to recall the glorious deed of its alumni, which is recorded in the ancient annals of the College. When, in the year 1527, the troops of Emperor Charles V inflicted a most grievous devastation upon the City, under the command of the Duke of Bourbon, the rector and the alumni of Capranica, in order to repel the sudden attack, fought at the walls of the City near the Vatican, and all perished. During that conflict, Pope Clement VII was able to flee from the buildings of the Vatican to the Castle of Saint Angelo.

From the French Seminary: the Reverend Henry Bougouin from Lamote St. Heray in the diocese of Poitiers; Gustavus De Dartein from Strasbourg; Leo Dehon from La Capelle in the diocese of Soissons; and Joseph Dugas from Lyons.

From the German-Hungarian College: the Reverend Dionysius Delama from Spormaggiore in the diocese of Trent; Paul Gierich from Rybnik in the diocese of Vratislavia; Dominic Hengesch from Düddingen in the Apostolic Vicariate of Luxembourg; and John Bapt. Huber from Traunstein in the diocese of Munich in Bavaria.

From the English College: the subdeacon Samuel Allen from Stockport (Shrewsbury), and the cleric James Guiron from London.

From the Irish College: the deacon Patrick Tynan from Castle Dermot in the diocese of Dublin; and the cleric Michael Higgins from Midleton in the diocese of Cloyne.

From the Scottish College: the Reverend Aeneas MacFarlane from Lochaber in the Apostolic Vicariate of Western Scotland.

From the American College of the North: the Reverend Theodore Metcalf from Boston; and the cleric Peter Geyer from Dayton in the diocese of Cincinnati.

[*Latin ed. p. 282*]

FROM ACTS 15. Meanwhile, the Most Eminent Cardinal Dean will be celebrating Mass, and the other ministers, namely the assisting Priest, the Deacon, and the Subdeacon, accompanied by the Master of Ceremonies, along with five acolytes bearing candles and three Clerks of the Chapel, will proceed to the altar within the hall and await the arrival of the Supreme Pontiff.

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16. The Most Eminent Cardinals will occupy the seats prepared before the papal altar.

17. Two Bishops will stand near the book and candle, close to the aforementioned faldstool, before the altar.

18. The Supreme Pontiff, upon entering the Basilica, will descend from his seat, remove his mitre, approach the papal altar, and recline upon the faldstool.

19. The singers will intone the final verse of the hymn.

20. Meanwhile, the aforementioned Generals and Vicargenerals, having made a genuflection as above, will enter the hall through the side door near the chapel of the Blessed Virgin Mary and proceed to their assigned places.

21. After the singing of the final verse, the Supreme Pontiff will recite the verses and prayers.

22. Upon the completion of the prayers, the Most Eminent Cardinals, having repeated the genuflection as above, will enter the hall with only the Caudatario, and, after paying reverence before the altar to the Cross, will proceed to their own seats.

23. The Supreme Pontiff, having repeated the genuflection and resumed his mitre, will enter the hall, bless the Fathers, and, after removing his mitre, will pray before the altar.

24. He will rise, and, together with the Cardinal Dean who is to celebrate Mass, will begin the Mass, which will be celebrated according to the customary rite.

25. During the Mass, no obedience will be offered, no sermon will be given after the Gospel, nor will the Most Eminent Cardinals descend to the sanctuary.

26. Upon the completion of the Mass and the recitation of the prayer "Placeat, etc.," the celebrating Cardinal will return to the faldstool.

27. The Clerks of the Chapel will place a throne upon the altar for the deposition of the Holy Gospel book.

28. The secretary of the Council will descend from his place, and, after paying reverence to the Supreme Pontiff, will approach the credence table. Then, with everyone rising, the same secretary, paying reverence to no one, will, with uncovered head, carry the Holy Gospel book to the altar and place it upon the prepared throne.

[*Latin ed. p. 283*]

VATICAN COUNCIL 283 29. The Code of the Holy Gospels is placed upon the altar; the Episcopal Secretary takes his place. 30. The presiding Bishop, wearing a cope and holding his mitre, approaches the *solium*, and after first rendering a profound reverence before the steps of the said *solium*, he approaches the Supreme Pontiff, to whom, having bowed, he

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will kiss His right knee, and will request indulgences. 31. While the presiding Bishop approaches the *solium*, the vestments for the Supreme Pontiff, previously arranged by the Subsacrist, will be placed in order above the altar. 32. A discourse will be delivered by the Bishop of Murten. 33. Upon the completion of the discourse, the Apostolic Subdeacon will carry the papal cross before the steps of the *solium*. 34. The Supreme Pontiff, having removed his mitre, will rise and give the blessing: "May the name of the Lord be blessed..." 35. The Most Eminent Cardinals and Reverend Fathers, with heads uncovered, will stand for the blessing; the Abbots and all others will bend the knee. 36. The Bishop who delivered the discourse will announce the indulgence, then he will descend from the ambo and take his assigned place. 37. The Cardinal celebrant will rise, approach the Altar, bless the book and himself, and, reciting the Gospel of Saint John, will return with his ministers to the sacristy, lay aside the sacred vestments, and, wearing a cope, will return to the hall among the other Most Eminent Cardinals. 38. Two Bishops, with a book and a candle, will approach the Supreme Pontiff, who will recite the psalm "Quam dilecta est..." 39. The Apostolic Subdeacon will bring the sandals and shoes to the *solium*, accompanied by two Notaries. 40. The Supreme Pontiff will put on the shoes and sandals. 41. The Sacristan will be at the altar to prepare the sacred vestments of the Pope. 42. The Notaries will be at the altar to carry the aforementioned sacred vestments. 43. The Cardinal Deacon will be singing the Gospel at the *solium*. 44. The Cardinal Priest, wearing a cope, will ascend to the *solium* and will remove the ring from the Supreme Pontiff. 45. The Notaries will bring the vestments to the *solium*. 46. The aforementioned Cardinal Deacon, having removed the mitre, formal cap, cope, stole, and cincture, will clothe the Supreme Pontiff with all the missal vestments, namely the undertunic, the cross,

[*Latin ed. p. 284*]

47. The Apostolic Subdeacon shall stand at the altar for the Holy Pallium, which he shall carry to Zvolen. He shall be accompanied by one of the electors from the Signature, who shall prick him with a thorn.

48. The Cardinal Deacon aforesaid shall place the sacred Pallium upon the Supreme Pontiff.

49. The same Cardinal shall replace the mitre upon the Supreme Pontiff, and shall return to his place.

50. The assisting Cardinal Priest shall place the ring upon the Supreme Pontiff, and shall return to his stall.

51. Obedience shall be rendered by the Most Eminent Cardinals, who shall kiss the hand of the Supreme Pontiff; by the Most Reverend Patriarchs, Primates, Archbishops, and Bishops, who, having first made a profound inclination before the steps of the throne, shall stand and kiss the right knee of the Supreme Pontiff; and the Abbots, having first knelt, shall kiss the

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right foot of the Supreme Pontiff before ascending to the throne.

52. The Secretary Bishop, having rendered obedience, shall take his assigned place among the Officials.

53. After the obedience has been rendered, the stall shall be prepared in front of the throne by the Clerks of the Chapel.

54. The first Cardinal Deacon assisting shall say aloud: "Pray."

55. The Supreme Pontiff, having removed his mitre, shall lie down upon the stall, and all the rest shall bend their knees in their own places.

56. Meanwhile, two Bishops shall be present with a book and a candle.

57. After a short interval, only the Supreme Pontiff shall rise, and shall read aloud in a solemn tone the prayer "Adsumus, Domine, etc.," at the end of which all shall respond "Amen."

58. The second Cardinal Deacon assisting shall be the first to rise, and shall say aloud: "Arise."

59. All shall rise and stand.

60. The singers shall sing the antiphon "Exaudi nos, Domine, etc."

61. The first Cardinal Deacon shall again say aloud: "Pray."

62. All shall again bend their knees and pray for a while.

63. The second Cardinal Deacon shall be the first of all to rise, and shall say aloud: "Arise."

64. All shall rise and stand, as before.

[*Latin ed. p. 285*]

VATICAN COUNCIL

285 65. The Supreme Pontiff shall chant in the ordinary tone the prayer "Mentes nostras," etc.

66. Upon the completion of the prayer, all shall again prostrate themselves without mitres, except the Supreme Pontiff, who shall wear a simple mitre.

67. Two singers, kneeling in the sanctuary, shall chant the litanies.

68. The Supreme Pontiff, as noted, shall rise alone, and holding the Cross with his left hand, in place of the pastoral staff, shall thrice bless the Synod, saying: "As this holy Synod," etc.

69. The Litanies shall be completed.

70. All shall rise and stand.

71. The Supreme Pontiff shall say: "Let us pray."

72. The First Cardinal Deacon shall say: "Let us bend our knees, and all shall kneel, except the Supreme Pontiff."

73. The Second Cardinal Deacon shall say: "Arise, and all shall rise."

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74. The Supreme Pontiff shall recite in the ordinary tone the prayer "Oremus," and upon its completion, he shall resume his mitre, return to his seat, and shall sit therein.

75. The Cardinals and Fathers shall sit, and shall cover themselves with their mitres.

76. The Cardinal Deacon, about to chant the Gospel, and the Apostolic Subdeacon shall approach to receive the credence and the maniple.

77. The same Cardinal Deacon shall receive the book of Gospels, which he shall carry forth according to the custom and place upon the altar.

78. He shall approach the *solium* and kiss the hand of the Supreme Pontiff.

79. The Acolytes of the Signature, the Voting Cardinals, with candelabra, and the Apostolic Subdeacon shall be before the altar.

80. The Cardinal Priest attending shall return to the *solium*.

81. The Pope, with the same Cardinal Priest ministering, shall place the incense in the thurible with a blessing.

82. The Cardinal Deacon, kneeling before the altar, shall recite the prayer "Munda cor meum," etc., and having received the book from the altar, shall join the Subdeacon and the Acolytes.

83. The Cardinal Deacon, the Apostolic Subdeacon, the Acolytes, and the Thuriferarius shall approach the *solium* for a blessing.

84. Having received, as above, the blessing, the Gospel shall be chanted.

85. During the chanting of the Gospel, all shall rise with their heads uncovered, and shall also lay aside their caps.

[*Latin ed. p. 286*]

286 FROM THE ACTS 86. After the Gospel has been sung, the Supreme Pontiff will kiss the book presented to him by the Subdeacon, and will be incensed by the assisting Cardinal Priest, who, after the incensing, will return to his seat. 87. The Cardinal Deacon and the Apostolic Subdeacon will lay down their stoles and return to their places. 88. The acolytes and the thurifer will lay down the candelabra and the thurible. 89. All will sit with their mitres, and the Supreme Pontiff will address the Fathers. 90. The stall will be replaced by the Clerks of the Chapel on the level of the throne. 91. The Cardinal Priest will return to the throne to assist. 92. The Supreme Pontiff, having removed his mitre, will approach the stall. 93. Two Bishops with a book and a candle. 94. The Supreme Pontiff, from the book presented to him by the assisting Cardinal Priest, will begin the hymn *Veni Creator Spiritus*, and will prostrate himself upon the stall. 95. All the rest will bend the knee and bow their heads. 96. The singers will follow with the hymn. 97. At the end of the first verse, the Supreme Pontiff will rise and stand in his seat. 98. All the rest will rise and stand in their places. 99. The stall will be removed from the level of the throne. 100. Two Bishops with a

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book and a candle. 101. The Supreme Pontiff, having completed the hymn, will sing a verse and a prayer from the book, which will be held by the Cardinal Priest. 102. Two singers will sing *Benedicamus Domino*, and in response, *Deo gratias*. Then all the singers will depart from the hall, and will remain in the Gregorian Chapel of the Blessed Virgin Mary. 103. The Supreme Pontiff will sit and resume his mitre. 104. All the rest will sit with their mitres. 105. By order of the Prefect of Ceremonies, those who do not have a place in the Council will be dismissed, namely: the Master of the Sacred Hospitium. (1) By a special mandate of the Pontiff, the following, from number 105 to number 108 inclusive, did not take place: but with the doors of the hall open, indeed, and with the side panels, by which the doors are made larger, lowered, all the spectators, as before, were allowed to witness the proceedings of the Council.

[*Latin ed. p. 287*]

VATICAN COUNCIL

287. The remaining Prelates who are not official members, with the exception of the Apostolic Subdeacon and the Dean of the Holy Rota. The Chamberlains, both secret and common, and those of honor, with the exception of only two from among those present, who will attend to the Supreme Pontiff. Secret Chaplains and common Chaplains – the Chamberlains outside – Acolytes and Clerks of the Chapel – the Gatekeepers with the red staff. The Doorkeepers.

106. Having dismissed those who are unable to attend the subsequent proceedings, the outer door of the hall will be closed by the Gatekeepers.

107. Outside, the Gatekeepers will watch over the main entrance to the conciliar hall and the other smaller entrances, and they will guard them.

108. Those who do not have a place in the Council will remain in the chapel of the Blessed Virgin Mary and in another, of Saint Peter, with the inner doors closed.

109. The Episcopal Secretary, together with another Bishop, who will read the decrees, will approach the Supreme Pontiff and will observe the procedure that has been prescribed for the preaching Bishop (2).

110. The Supreme Pontiff will present the decrees to be promulgated in the first session, either to the Secretary or to the other Bishop, who will read them.

111. The Secretary or the other Bishop will ascend the ambo, where, with the consent of those present, he will make a deep bow towards the Supreme Pontiff; then, having uncovered his head, he will read the title of the decrees, namely: "The Pius Bishop, servant of the servants of God, with the approval of the Holy Council, for the perpetual remembrance of this matter." Then, wearing his cope and mitre, he will sit and read the

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decrees to be approved in the first session. (2)

Here and subsequently, the decrees are indicated in the plural number; but in this action, there was only one decree presented and published, and the action itself took place in a somewhat different manner. For, the Secretary of the Vatican Council, together with the Bishop of Fabriano, Anthony Valenziani, approached the Pontiff's *solium*, and the Secretary, ascending the *solium*, presented to the Pontiff a copy of the decree concerning the beginning of the ecumenical council; which decree the Pontiff handed to the Bishop of Fabriano; after both prelates had departed from the *solium*, the Secretary returned to his own seat; but the other, ascending the ambo, proclaimed the decree aloud. But when the question was asked, whether the decree read pleased them, it was not necessary for Scrutineers to approach to receive the votes of each individual: for, since all together unanimously acclaimed with the word "placet," the Pontiff immediately approved the decree. The same occurred in the proclamation of the second decree for the future public session: for, when Bishop Valenziani announced that the session would be held on January 6, 1870, all acclaimed with the word "placet." Therefore, all those things which are described in the subsequent paragraphs concerning the receiving of votes, did not take place, with these modifications.

[*Latin ed. p. 288*]

288 FROM THE ACTS 11%. After the Decrees have been read, standing with a bowed head, the Cardinals and Fathers will be asked by the presiding officer whether the Decrees read are acceptable. 113. The Secretary, or another Bishop, who has read the Decrees, will descend from the ambo and return to his place. 114. The Scrutineers, accompanied by the Notaries, will approach the center of the presbytery, and after making a genuflection to the Supreme Pontiff, will approach the Cardinals and Fathers, and receive their votes. 115. Two by two, the Scrutineers, accompanied by another of the masters of ceremonies, will proceed, with whom the Notaries of the Council will be joined, so that two Scrutineers will have one Notary of the Council assigned to them. These will perform the task of collecting the votes of the Fathers, so that, distributed among the four main sections of the hall of the Council, in groups of three (namely, two Scrutineers and one Notary of the Council), they will approach the section of the hall assigned to them for this purpose, and there they will individually inquire about the votes of the Most Eminent Cardinals, and also of the Patriarchs, according to the order of their seating; the votes of the Primates, Archbishops, Bishops, and other Fathers of the Council will also be requested individually, according to the order of their seating, while standing on the floor of the hall of the Council; and the votes of each will be accurately recorded. 116. The Cardinals and Fathers will express their vote aloud, using the words "Placet" (It pleases) or "Non placet" (It does not please), while seated with their miters. Abbots

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and others, to whom, by privilege, it is permitted to express their vote, will rise with their heads bowed, and after making a genuflection towards the Supreme Pontiff, will pronounce the words "Placet" or "Non placet." 117. When all the votes have been collected in one of the aforementioned sections of the hall, the two Scrutineers, together with the Notary who collected the votes in that section, will approach the table of the Secretary, which is placed in the center: there, the votes collected will be counted, and it will be recorded in the Acts whether the Decree has pleased all those who gave their votes, or whether there are some for whom it is pleasing only with some modification or condition, or not at all. 118. The Secretary will be present to direct and count the votes of the Fathers collected by the Scrutineers, so that, according to the formula previously determined for the various outcomes, he will record in writing those things which result from the computation of all the votes. 119. Then the Scrutineers, together with the Secretary, will approach the *solium* and submit to the Supreme Pontiff the total of the votes, duly recorded.

[*Latin ed. p. 289*]

The Council of VATICANI, number 289, decrees that, through its supreme authority, confirmation shall be added, and promulgation shall take place. 120. The Supreme Pontiff will confirm the decrees aloud, pronouncing the solemn formula: "The decrees just read having pleased the Fathers, without any dissent (or, if any should have dissented, except in their number), and We, with the sacred Council, approve them thus, We decree, We establish, and We sanction them as they were read." 121. The Secretary, following the rite previously noted, will again approach the Supreme Pontiff and will receive from him the decree of the convocation of the future session. 122. The Secretary will ascend the ambo and, following the rite previously prescribed, will announce the future session; he will then descend from the ambo and return to his seat. 123. The Protonotaries will approach before the last step of the solium, on the left side. 124. The Promoters will also approach the solium and, kneeling in the middle of the lowest step, will request the Protonotaries to prepare one or more instruments of all that has been done in this session. 125. The senior Protonotary will respond: "We trust in you, witnesses," indicating the Prefect of the pontifical house and the Prefect of the palace, who are present for this act, seated near the right side of the solium. 126. The door of the conciliar hall will be opened, and those who have previously departed will take their assigned places. 127. Two Bishops will stand by with the book and the candle near the solium. 128. The Cardinal Presbyter assisting will again approach the solium. 129. The Supreme Pontiff, having removed his mitre, will rise, and, from the book held by the assisting Cardinal Presbyter, he will begin the hymn "Te Deum laudamus," which will be followed by the choir of singers, alternating with the clergy. 130.

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Near the end of the hymn, two acolytes of the Signatura will approach before the steps of the solium, carrying candelabra. 131. Two Bishops will stand by with the book and the candle. 132. Upon the completion of the singing of the aforementioned hymn, the Supreme Pontiff will sing "Dominus vobiscum" and the prescribed prayer from the book offered by the Cardinal Presbyter. 133. After the prayer, the Cardinal Deacon, who sang the Gospel, will again approach the solium with the Apostolic Subdeacon. Acts, Volume V, page LUI. 19

[*Latin ed. p. 290*]

290 FROM THE ACTS 134. The Acolytes of the Signature shall return to Zvolen to receive the vestments with which the Supreme Pontiff is accustomed to be adorned. 135. The Sacristan shall return to the altar to receive the sacred vestments of the Pontiff. 136. The Cardinal Deacon shall remove the Sacred Pallium from the Supreme Pontiff, and shall hand it to the Apostolic Subdeacon. 137. The Apostolic Subdeacon shall go to the altar with the Holy Pallium, together with an Acolyte of the Signature, who shall bear the pinions. 138. The Cardinal Deacon shall orderly adorn the Supreme Pontiff with the remaining vestments, which he shall hand to the Acolytes. 139. The Acolytes of the Signature shall bring the sacred vestments to the altar, and shall hand them to the Sacristan. 140. The Supreme Pontiff shall put on the mozzetta and the stole. 141. The Apostolic Subdeacon, together with two Acolytes of the Signature, shall again go to Zvolen to receive the sandals and the shoes, which the Supreme Pontiff shall put on. 142. The Apostolic Subdeacon shall return the shoes and sandals to the credence table. 143. The Supreme Pontiff, after having put on his ordinary shoes, shall lay down the fald. 144. The fald shall be placed before the altar by the Clerks of the Chapel. 145. The Supreme Pontiff, preceded by the Cross carried by the Secret Chaplain, shall descend from Zvolen, shall approach the fald, and shall kneel for a short time to pray. 146. He shall rise, and after having made reverence to the Cross of the altar, he shall bless the Fathers, and shall return to his dwelling. 147. The Most Eminent Cardinals, outside the hall, shall, if they wish, lay down their sacred vestments. 148. The Reverend Fathers shall depart from the hall, and in the nearby sacristies suitably arranged, shall lay down their sacred vestments, and, having put on their ordinary garments, shall depart. "Our readers may reflect on the majesty of the thing, which we are unable to describe: they may imagine it for themselves from the documents presented thus far, considering that they have never seen in Rome so great a multitude of the Prelates of the Catholic Church assembled together; nor have they ever seen so much order and elegance in one place, with the Prelates of the Church assembled, as in the

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hall of the Vatican Council."

[*Latin ed. p. 291*]

At the Vatican Council, 291 pastors of so many and such important churches, obeying the Pope, who, one after another, humbly approached to kiss the Pope's feet (although the Pope, out of his kindness, offered them his hand, covered with a veil, to kiss), by that very act, you would have seen the Pope to be the Vicar of Christ; that wonderful, divinely foretold, Rock, upon which the whole Church of our Lord Jesus Christ is founded. Through that most solemn blessing, which the Pope, holding the cross, and standing alone before the Synod, prayed to God, that He might deign to bless, govern, and preserve it, by that very act, you would have seen the Shepherd of Shepherds. Through the sublime prayers, which are customary in the Latin Church, with which an immense and crowded multitude of people, although of various languages, were united with one voice and one feeling of mind, it seemed as if the heavenly and earthly Jerusalem were joined together. This common feeling of mind was like a crown to the Pope's address, which flowed entirely from the depths of His heart, and which is the subject matter that follows.

ADDRESS: "Given in the Vatican Basilica, at the beginning of the Œcumenical Council, by Our Most Holy Father Pius IX, by the Divine Providence of God, on the 8th of December, 1869, to the Catholic Bishops of the world assembled at this Council."

VENERABLE BROTHERS. "We are exceedingly glad that, as we requested in all our prayers and hopes, that We might be able to celebrate this Œcumenical Council, it has been granted to Us through the most remarkable and singular grace of God Himself. Therefore, Our heart rejoices in the Lord, and is filled with unspeakable consolation, that on this most auspicious day, dedicated to the holy Conception of the Immaculate Virgin Mary, Mother of God, We see you, who have been called to share in Our care, present here again in greater numbers than usual, in this stronghold of the Catholic Religion, and We rejoice in your presence."

"And now, Venerable Brothers, in the name of Christ..."

[*Latin ed. p. 292*]

FROM THE ACTS, those who are gathered (1) are present, so that you may bear witness with us to the Word of God and to the testimony of Jesus Christ (2), and that you may teach all men with us the way of God in truth (3), and that, led by the Holy Spirit, you may judge with us against oppositions, the false knowledge of evil (4) (5). "For if ever at another time, but especially at this time, when truly the earth has shone forth and withered because of its inhabitants (6), the zeal for divine glory and the salvation of the Lord's flock are demanded of us, so that we may surround

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Zion and embrace it, proclaim it on its towers, and set our hearts in its strength (7), "You see, Venerable Brothers, how the ancient enemy of the human race has attacked and continues to attack the house of God, which is worthy of holiness. By his instigation, that fatal conspiracy of the wicked spreads widely, which, with strong connections, powerful resources, fortified institutions, and a veil of malice, never ceases to wage a most bitter war against the Holy Church of Christ, steeped in every wickedness. You are not ignorant of the nature, power, weapons, progress, and plans of this war. Before your very eyes are constantly present the disturbances and confusion that afflict human affairs in all their orders, the lamentable perversion of every law, the manifold and audacious arts of lying and corruption, by which the salutary bonds of justice, honesty, and authority are loosened, and the worst desires are inflamed, so that the Christian faith is completely eradicated from the minds of men, so that at this time the destruction of the Church of God would be a matter to be feared, if it could be torn away by any human machinations and efforts. But nothing is more powerful than the Church, as the holy John Chrysostom said: "The Church is stronger than even heaven itself. Heaven and earth shall pass away; but my words shall not pass away. "Which words? "You are Peter, and upon this rock I will build my Church, and the gates of hell shall not prevail against it (9)." "Although the City of the Lord of Hosts, the City of our God, rests upon an impregnable foundation; nevertheless, recognizing and deeply lamenting such a multitude of evils and the ruin of souls, to which we are prepared to give even our lives to avert, We..."

(1) Matthew 18:20.

(2) Revelation 1:2.

(3) Matthew 22:16.

(4) 1 Timothy 6:20.

(5) Acts of the Apostles 15:19.

(6) Isaiah 24:4-5.

(7) Psalm 47:11-12.

(8) 1 Peter 2:16.

(9) Homily before exile, no. 1.

[*Latin ed. p. 293*]

We, exercising the vicariate of the eternal Shepherd in the government of the Church on earth, and inflamed with zeal for the house of God above all else, have considered it necessary to adopt that path and method which seemed most useful and appropriate for healing the many injuries to the Church. And recalling often the words of Isaiah, "Take counsel, gather a council," and considering that such a remedy has been wisely employed by Our Predecessors in the most serious times of the Christian cause, after long prayers, after consultations with Our Venerable Brothers, the Cardinals

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of the Holy Roman Church, and after seeking the suffrage of many Holy Bishops, We have summoned you, Venerable Brothers, who are the salt of the earth, the guardians of the Lord's flock and Pastors, to this place before the Chair of Peter; and today, with the favor of divine goodness, which has removed so many obstacles to this great undertaking, We celebrate the beginnings of this holy Congregation with the solemn rites of Our predecessors. But there are so many, and they are so abundant, the feelings of charity with which We are affected at this time, Venerable Brothers, that We cannot contain them within Ourself. We seem to see before Us the entire family of the Catholic people, Our most beloved sons present; We think of so many pledges of love, so many fervent works, with which, through Your inspiration, guidance, and example, they have wonderfully demonstrated and continue to demonstrate their piety and devotion to Us and to this Apostolic See; and We cannot restrain Ourselves from praying earnestly to God, before this vast assembly of Yours, that the proof of their faith, which is worth far more than gold, may be found "to the praise and glory and honor" (1) of God, "in the revelation of Jesus Christ." Then, We also consider the miserable condition of so many people who, deceived from the path of truth and justice, and therefore of true happiness, wander astray, and We desire to offer them help for their salvation, remembering Our Divine Redeemer and Master, Jesus, who came to seek and to save that which was lost. Furthermore, We turn Our eyes to this trophy of the Prince of the Apostles, before which We stand, to this venerable City which, entrusted to Us by God, "was not for destruction among the nations, to this Roman people most dear to Us, surrounded by their steadfast love, faith, and obedience, and to whom We are called to give thanks for the goodness of God, who places in Us the hope of His divine protection" (1).

[*Latin ed. p. 294*]

From the Acts, We desire to strengthen and confirm with ever greater zeal. But above all, We embrace you, Venerable Brothers, knowing that in your solicitude, zeal, and concord, a great importance is now placed for the glory of God; We recognize the ardent desire which you have brought to fulfilling your office, and especially that most excellent and close union of you all with Us and with this Apostolic See, by which, as always in Our greatest trials, so especially at this time, nothing can be more pleasing to Us, nothing more useful to the Church; and We greatly rejoice in the Lord that you are so united in spirit, that We are encouraged to hope for abundant fruits and the most desirable outcomes from this Synodal assembly. For just as no war has ever been so fierce and cunningly waged against the Kingdom of Christ, so no time has been in which the union of the Lord's priests with His Supreme Shepherd, from which a wondrous power flows into the Church, is more urgently needed; this union, by the singular grace of divine providence and by your evident virtue, has now been so firmly

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established that it has become a spectacle, and we are more confident that it will be so in the days to come, before the world, the angels, and men. "Therefore, Venerable Brothers, be strengthened in the Lord: and in the name of the very Trinity, sanctified in truth (1), clothed with the armor of light, teach with Us the way, the truth, and the life, to which the human race, already so agitated by troubles, can no longer fail to aspire: work with Us, that peace may be restored to kingdoms, law to barbarians, rest to monasteries, order to churches, discipline to clergy, and a people pleasing to God (2). God stands in His holy place, interested in Our councils and actions; He Himself has chosen Us, His ministers and helpers, in this most excellent work of His mercy, and it is Our duty to serve this ministry, so that We may dedicate Our minds, hearts, and strength to Him alone at this time. "But conscious of Our weakness, and with Our powers strained, We raise Our eyes to You with confidence, and We turn Our prayers to You, O Divine Spirit: You are the font of true light and divine wisdom; let the light of Your grace shine beyond Our minds, that We may see what is right, what is salutary, and what is best. Govern, cherish, and direct Our hearts, that the actions of this Council may begin properly, may progress successfully, and may be completed healthily. (1) John 17:19. (2) St. Bernard, *De Cons.* 1.4, c.4.

[*Latin ed. p. 295*]

"You, O Mother of beautiful love, of recognition, and of holy hope, Queen and advocate of the Church, receive us, our consultations, and our labors, under your maternal protection, and through your prayers to God, that we may always remain united to Him in heart, 'You also, Angels and Archangels, and you, most blessed Peter, Prince of the Apostles, and you, His co-apostle, Paul, doctor of the Gentiles and preacher of truth throughout the world: and you all, holy celestials, and especially those whose ashes we venerate here, implore you with fervent prayer, that all of us, faithfully fulfilling our ministry, may receive the mercy of God in the midst of His Temple, to whom be honor and glory for ages of ages."

FROM THE FIRST GENERAL MEETING, ON THE TENTH DAY OF DECEMBER, 1869.

Besides the general public sessions, in which the Pope himself presides, and in which the Decrees that He deems necessary to confirm are approved, confirmed, and sanctioned by the unanimous consent of all the Fathers, according to the method described in the Apostolic Constitution *Multiplices*; besides such sessions, I say, there are several general meetings of the Fathers, in which the opportunity is given to discuss the proposed schemes prepared in Rome, so that the discussions of the Fathers may proceed in order.

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But in the first meetings, of which we shall speak, no discussion is held, because concerning the establishing of various and particular councils, which are called Deputations, according to the aforementioned Apostolic Constitution. In these meetings, the Pope does not intervene, but the Synodus is administered by those constituted. These are held in the conciliar hall with closed doors, and, as the Curators announce, if the meeting is not a continuation of the previous one. When the matter concerns the continuation of the action, the meeting is held within the Synodus itself.

[*Latin ed. p. 296*]

296 FROM THE ACTS: "In synodal assemblies, or general or particular assemblies, the Most Reverend and Most Reverend Cardinals shall wear, over their cassocks, a mantle and a mozzetta of red or violet color, according to the time of year, as is prescribed in the 'Announcements of the Days,' etc. The Most Reverend Fathers, wearing their ordinary prelate's attire, shall attend; namely, the Most Reverend Patriarchs, a violet cassock, mantle, and mozzetta; the Most Reverend Primates and Archbishops, a violet cassock and mantle; and the Most Reverend Fathers belonging to regular Orders shall wear a mantle and mozzetta of the color of their habit. The Most Reverend Fathers of the Oriental Rite shall wear their ordinary vestments according to the custom of their rite. The Most Reverend Abbots regular shall use the prelate's habit which they are accustomed to use in their Congregation. The place, hour, and day of the individual assemblies shall be indicated by the Most Reverend Father, Secretary." Aloisius Perrari, Protonotary Apostolic, Prefect. "The notification shall be made by messengers, leaving a copy at the residence." Also: "On Thursday, December 10, 1869, at nine o'clock in the morning, the first general assembly of the œcumenical Council of the Vatican will be held, in which the Judges of Excuses will be elected, as well as the Judges of Complaints and Controversies, according to n. V. of the Apostolic Brief of November 27, which was distributed to the Fathers of the Council in a pre-synodal assembly on the 2nd of this month. The election shall be made by secret ballots, so that each Father shall write down five names of those Fathers whom he intends to elect as Judges of Excuses on one ballot, and on another ballot, five names of those whom he intends to elect as Judges of Complaints and Controversies." "Rome, December 6, 1869." Joseph, Bishop of Sancti Hippolyti, Secretary of the Vatican Council.

[*Latin ed. p. 297*]

The First General Congregation was held on December 10th, to which, in the name and with the authority of the Pope, Cardinals Antoninus De Luca, Joseph Andrew Bizzarri, Aloysius Bilio, and Hannibal Capotti attended; for Cardinal Charles de Beisach was absent due to illness. After the sacred

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rite of Confirmation was celebrated by the Archbishop of Auxima and Cingulana, Salvator Nobili-Vitelleschi, who, among the present Presidents of the Council, holds the highest rank in the dignity of Cardinal, he began with prayers, as mentioned in the order, which is given above on page 276, and these were recited together by the Fathers while standing. After these prayers were offered, the same Cardinal addressed the Fathers in this manner:

A BRIEF ADDRESS

Given in the first General Congregation of the Holy Council of Vatican on December 10th, in the year of Our Lord 1869, by the Most Reverend Cardinal Antoninus De Luca, holding the title of the Most Holy Four Crowned Martyrs.

Reverend Fathers, "In this sacred and venerable assembly, which displays before your eyes the majesty and admirable unity of the Catholic Church, spread throughout the entire world, we have come before you, obeying the mandate of the Most Holy Lord, our Supreme Pontiff. Indeed, He wished to entrust us with the most important duty of presiding over the General Congregations of this Holy Vatican Synod.

"If we consider the magnitude and the difficulties of the task imposed upon us, we ought to be filled with concern, fearing that our strength may prove too unequal to such a great undertaking.

"However, the religion, zeal, learning, prudence, and other virtues with which you, Reverend Fathers, excel, certainly alleviate our concerns, and inspire a firm and certain hope that this most salutary endeavor, with dedicated efforts and united minds, will proceed in a holy and successful manner, with God's help.

"Aided by the light and power of the Holy Spirit, and proceeding in this manner and with sound reasoning, we shall strive to ensure that from this Holy Œcumen-

[*Latin ed. p. 298*]

98 FROM the Acts of the Council, the Holy Church gathers together those men who are awaited by God, and those most abundant fruits. This brief prayer, in the same Synod, was translated into the vernacular language by Eastern Fathers, who do not understand Latin, by appointed Interpreters, who perform this task where it is necessary. In the same Congregation, the names of those Cardinals were published, appointed by the Pontiff, to whom, if any matter or question should be presented by the Fathers in the Council, which they deem should be decided and defined according to § II of the Constitution. The names of this Council are those that follow. NAMES "Of the Most Eminent and Most Reverend Cardinals and Most Reverend Fathers, of whom a special Congregation consists, ap-

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pointed by Our Most Holy Father Pope Pius IX, for receiving and considering the propositions of the Fathers." MOST REVEREND AND EMINENT CARDINALS "Constantine Cardinal Patrizi, Camillus Cardinal Di Pietro, Philip Cardinal De Angelis, Cosmas Cardinal Corsi, Sixtus Cardinal Riario Sforza, Joseph Otmar Cardinal Rauscher, Henry M. G. Cardinal De Bonnechose, Paul Cardinal Gullen, Lawrence Cardinal Barili, John Ignatius Cardinal Moreno, Raphael Cardinal Monaco, James Cardinal Antonelli." MOST REVEREND FATHERS "Gregory Iussef, Patriarch of Antioch of the Melchites, Joseph Valerga, Patriarch of Jerusalem.

[*Latin ed. p. 299*]

VATICAN COUNCIL: Joseph Hippolytus Guibert, Archbishop of Tours; Alexander Riccardi De Netro, Archbishop of Turin; Marianus Barrio y Fernandez, Archbishop of Valence; Raphael Valentinus Valdivieso, Archbishop of Saint James of Chile; Ioannes Martinus Spalding, Archbishop of Baltimore; Franciscus Xaverius Apuzzo, Archbishop of Sorrento; Alexander Franchi, Archbishop of Thessalonica; Petrus Giannelli, Archbishop of Sardinia; Henricus Eduardus Manning, Archbishop of Westminster; Victor Augustus I. Dechamps, Archbishop of Mechlin; Conradus Martin, Bishop of Paterbon; Petrus Hieremias M. Gelesia, Bishop of Patti.

Thereafter, the Fathers, by secret votes, designated the names of those whom the two Councils wished to appoint as Judges of Excuses, and as Judges of Complaints and Controversies, according to § V. of the aforementioned Constitution. That is, each Father wrote down the names of five Bishops for the purpose of constituting the first Council, and also five others for the purpose of constituting the second Council, so that, after the scrutiny, those who received the greater number of votes would be elected.

In the same Congregation, several drafts were also distributed, concerning which it would be necessary to deliberate in future Congregations, and likewise, Apostolic Letters were distributed in the form of a Bull, concerning the election of the Roman Pontiff during any ecumenical Council, the tenor of which is as follows:

"By the Divine Providence of Our Most Holy Lord, Pope Pius IX. Constitution concerning the election of the Roman Pontiff, should the Apostolic See become vacant during an Ecumenical Council."

PIUS, BISHOP, SERVANT OF THE SERVANTS OF GOD, for the perpetual memory of this matter.

"Since to the Roman Pontiffs, in the Basilica of Saint Peter, the Prince of the Apostles, has been entrusted by Our Lord Jesus Christ the full power to feed, govern, and rule the universal Church; peace."

[*Latin ed. p. 300*]

300. The Acts and the unity of the Church itself could easily be brought

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to grave danger, if, while the Apostolic See is vacant, something were to occur in the election of a new Pontiff that could render it uncertain and doubtful. "To avert this most disastrous peril, several Constitutions have been issued by our predecessors, the Roman Pontiffs, and in particular by the blessed and venerable Alexander III. in the Third General Council of the Lateran (1), by the blessed Gregory X. in the Second General Council of Lyons (2), by Clement V. (3), by Gregory XV. (4), by Urban VIII. (5), and by Clement XII. (6), in which, while prescribing many other things, so that this matter of such importance may be properly and duly carried out, it is generally and without any exception declared and decreed that the election of the Supreme Pontiff belongs solely and exclusively to the College of Cardinals of the Holy Roman Church. "Bearing these things in mind, and since the Ecumenical and General Council of the Vatican, which We have convoked by Apostolic Letters beginning with the words *Aeterni Patris* on the first of July in the year 1868, is about to begin solemnly, We consider it Our duty, whenever the opportunity arises to prevent and avert discord and dissension concerning the election of the Supreme Pontiff, and if it should please Divine Providence for Us to pass from this mortal life while this Council is still in session. "Therefore, following the example of Our predecessor, the blessed and venerable Julius II, of whom it is reported in history (7), that during the Fifth General Council of the Lateran, he, having been struck down by a deadly illness, convened the Cardinals before him, and, concerned about the legitimate election of his Successor, decreed, while they were present, that this should be carried out not by the aforementioned Council, but only by their College; and as it actually happened, after the death of the aforementioned Julius, and further inspired by the example of Our other predecessors, also the blessed Paul III. and Pius IV., the former by Apostolic Letters dated the thirteenth of December in the year 1544, and the latter by similar Letters dated the twentieth of October in the year 1561, foresaw the event of their own death.

(1) Cap. *Licet de Electione*.

(2) Cap. *Ubi de Electione in 6*.

(3) Clement. 2 *de Electione*.

(4) Constit. *Decet Romanum Pontificem*.

(5) Constit. *Ad Romani Pontificis* Y. Kal. Februarii 1625.

(6) Constit. *Apostolatus IV*. Nonas Octobris 1732.

(7) Raynald. *Annal. Eccles*, ad annum 1513 n. VII.

[*Latin ed. p. 301*]

The Council of VATICANI, while the Tridentina Council was being held, decreed that, should such a circumstance arise, the election of a new Pontiff must be carried out solely by the Cardinals of the Holy Roman Church, excluding entirely any participation by the aforementioned Council; and fur-

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thermore, after mature deliberation and diligent examination with some Venerable Brothers, namely, the aforementioned Cardinals of the Holy Roman Church, and with certain knowledge, by Our own motion and by the fullness of Our Apostolic authority, We declare, decree, and ordain that, if it should please Almighty God to bring our mortal pilgrimage to an end while the aforementioned General Council of VATICANI is still in session, the election of the new Supreme Pontiff, in whatever state and circumstances the Council may exist, must be carried out solely by the Cardinals of the Holy Roman Church, and certainly not by the Council itself, and furthermore, absolutely excluding from said election any other persons whatsoever, even if they should be designated by the authority of the Council itself, other than the aforementioned Cardinals.

Moreover, so that the aforementioned Cardinals may proceed more freely and expeditiously in such an election, without any impediment whatsoever, and with any occasion for disturbance and discord removed, by the same knowledge and the fullness of Our Apostolic authority, We further decree and ordain that, if, while the aforementioned Council of VATICANI is still in session, We should depart this life, the same Council, in whatever state and circumstances it may exist, shall immediately and forthwith be suspended and adjourned, just as We intend in these Letters to suspend it now for a time to be noted, so that, without any delay whatsoever, it must immediately cease from all meetings, congregations, and sessions, and from the making of any decrees or canons, and for no reason whatsoever, even if it should seem very serious and worthy of special mention, until a new Pontiff, canonically elected by the Sacred College of Cardinals, shall have deemed it fitting to announce the resumption and continuation of the Council itself.

Furthermore, considering it opportune that what We have ordered up to this point, by reason of the aforementioned Council of VATICANI, both with regard to the election of the Supreme Pontiff and with regard to the suspension of the same Council, should provide a certain and stable norm to be observed perpetually in similar circumstances, by the same knowledge and authority, We decree and ordain that, in all future times, when—

[*Latin ed. p. 302*]

302 FROM THE ACTS, and it may happen that the Roman Pontiff dies during the celebration of some Ecumenical Council, whether it be held in Rome or in any other place in the world, the election of the new Pontiff must always and exclusively be carried out by the College of Cardinals of the Holy Roman Church, according to the manner defined above; and the Council itself, likewise according to the rule established above, shall immediately be suspended by its own right upon the certain announcement of the death of the Pontiff, and shall be postponed until the newly elected Pontiff shall have ordered it to be resumed and continued. "These present

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letters shall always be valid, firm, and efficacious, and shall have and obtain their full and complete effect, and under no circumstances, at any time, from any head, or for any reason of the vice of fraud, or of breach, or of nullity, or of intention, or for any other reason, however substantial, which requires a specific and individual mention or expression, or from any other head contrary to the established law, or from any pretext, reason, or cause, however such that it would necessarily be expressed for the effect of validity of the foregoing, shall they be noted, impugned, refuted, invalidated, retracted, brought into law or controversy; nor shall these present letters be included under any revocations, limitations, modifications, derogations, under any wording and forms, and with any clauses and decrees, even if in them special mention of these present matters, and of their entire tenor and date, were made, for the time being made and granted, and to be made and granted; but they must always and entirely be excepted from them, and from this moment forward, whatever may be attempted against these provisions, while the Apostolic See is vacant, by any authority, even that of the aforementioned Vatican Council, or of any other future Ecumenical Council, even if with the unanimous consent of the present, or for the time being existing, Cardinals, knowingly or unknowingly, We declare to be void and of no effect, and of no validity. "Notwithstanding, in accordance with the happy memory of Alexander III, Our Predecessor, who in the Lateran Council issued the decree beginning "Licet et vitanda," and of all other special or general Constitutions Apostolic, even those contained in the body of the law,

[*Latin ed. p. 303*]

303. The Council of the Vatican, under whatever conditions and forms, and with any derogations, and with other more efficacious and unusual clauses, and with all other Decrees, whether in general or in specific terms, even those established by *Motu proprio* and by the Sacred Consistory, to which all and each of these apply insofar as they are necessary and their terms are expressed exactly as if they were present, are to be understood as inserted and expressed only in that part which is contrary to the present document, while the others remain valid in their full force; for this occasion only, we broadly, fully, and sufficiently, and also specially and expressly, derogate from this series, and from all other contrary provisions whatsoever. "Therefore, it is not permitted to any person whatsoever to infringe this page of our declaration, ordinance, statute, decree, derogation, and will, or to dare to contradict it with reckless audacity. If anyone should presume to attempt this, let him know that he will incur the indignation of the Almighty God and of the Blessed Apostles Peter and Paul. " Given in Rome, at St. Peter's, in the year of the Incarnation of Our Lord one thousand eight hundred and sixty-nine. On the eve of the ninth day before the Kalends of December, in the twenty-fourth year of Our Pontificate. M. Card.

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MATTEI, Pro-Datary. N. Card. PARACCIANI GLARELLI. Examined by the Curia. Dominicus. Loco Bruti Plumbi. I. Cugnoni. CONCERNING THE SECOND GENERAL CONGREGATION HELD ON DECEMBER 14, 1869. NOTICE: "Most Eminent and Reverend Presidents of the General Congregations, having considered the desire manifested by several Fathers, it was decided in the General Congregation, which will be held on Wednesday, December 14th, at nine o'clock in the morning, that..."

[*Latin ed. p. 304*]

304 FROM THE ACTS, only one delegation is to be chosen, namely, that which is designated for matters pertaining to the faith." "In Rome, on December 12, 1869." JOSEPH E. P. S. HIPPOLYTI, Secretary of the Vatican Council. In this Congregation, after the Mass of the Holy Spirit was celebrated by the Archbishop of Bourges, Charles, from the Princes of la Tour d'Auvergne-Lauraguais, and after prayers were recited by the President, Cardinal Anthony De Luca, the names of those Fathers were announced who, after a vote was taken, were elected as Judges of Excuses, and likewise, those who were elected as Judges of Complaints and Controversies. The votes were not taken in the Synodus because that would require too much time; therefore, with the consent of the Fathers, they were taken by designated men in the Secretariat of the Council. The names are as follows. NAMES "Of the Most Reverend Fathers who were elected with the greater number of votes as Judges of Excuses." MOST REVEREND FATHERS "Paul Melchers, Archbishop of Cologne; Benvenutus Monzón y Martins, Archbishop of Granada; Joachim Limberti, Archbishop of Florence; John Baptist Landriot, Archbishop of Rheims; Francis Pedicini, Archbishop of Bari." NAMES "Of the Most Reverend Fathers who were elected with the greater number of votes as Judges of Complaints and Controversies." MOST REVEREND FATHERS "Joseph Angelini, Archbishop of Corinthus; Gaspar Mermillod, Bishop of Hebron; Innocent Sannibale, Bishop of Eugubinus; John Rosati, Bishop of Tudertinus; Anthony Canzi, Bishop of Cyrene."

[*Latin ed. p. 305*]

805. From the Vatican Council. By secret ballots, twenty fathers wrote down names to form a Council concerning matters pertaining to the faith, so that, after a further scrutiny, those receiving the most votes might be chosen. Finally, Apostolic Letters were distributed in the form of a Bull, by which certain censures are limited and enumerated, by which those who have violated certain laws are bound. Such Apostolic Letters, promulgated in the Synodus, were issued for this reason, because, although the matter they address had long been entrusted for examination, they were not prepared until the time of the Vatican Council: it was done so that they were not sent to the Bishops, but were delivered individually to each

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Father at the very next Council, as ordered by the Pontiff; and on the 18th of that month, they were also affixed in the customary places of the city; this affixation ensures that they are understood to be promulgated in all places of the Catholic world. To these Letters, to which we add no annotations, the following text is appended: "The Constitution of Our Most Holy Lord, Pope Pius IX, by Divine Providence, whereby the ecclesiastical censures imposed by sentence are limited." PIUS, BISHOP, SERVANT OF THE SERVANTS OF GOD. For the perpetual memory of God's work. "It is fitting for the Holy See, which, in accordance with the salutary authority of the ancient canons, maintains order, that, if the change of times and circumstances suggests that something should be tempered with prudent dispensation, the same Holy See should provide a suitable remedy and provision, in accordance with its supreme power. Therefore, since We have long considered in Our mind the ecclesiastical censures, which, by way of sentence, are incurred by the very act, and which, to protect the safety and discipline of the Church itself, and to restrain and correct the licentiousness of the wicked, have been instituted and promulgated in each age, and which have gradually increased in number: certain Acts, volume V, page LI V 20."

[*Latin ed. p. 306*]

306 Moreover, even from the Acts themselves, considering the changed times and customs, the reasons and purposes for which they were instituted, or having fallen away from their original utility and appropriateness, doubts, anxieties, and torments of conscience frequently arise, both in those to whom the care of souls is entrusted, and in the faithful themselves; desiring to address such inconveniences, we have ordered that a complete review of these matters be made, and presented to us, so that, after careful consideration, we might determine which of them ought to be preserved and maintained, and which ought to be moderated or abolished. Therefore, after this review has been completed, and after consulting with our Venerable Brothers, the Most Holy Cardinals, appointed as General Inquisitors for the Faith throughout the Christian Republic, and after long and mature deliberation, by our own free will, with full knowledge, and with mature deliberation, and by the fullness of our Apostolic power, we decree, by this Constitution, which shall remain in force perpetually, that of all the censures, whether of excommunication, or suspension, or interdict, which have hitherto been imposed by way of *latae sententiae*, only those which we insert in this very Constitution shall have force and effect, and in the manner in which we insert them; at the same time declaring that these same, not only by the authority of the ancient canons, insofar as they agree with this our Constitution, but also by this very Constitution of ours, must derive their full force, as if they had been first issued by it. "Excommunications *latae sententiae* are especially reserved to the Roman Pontiff." "Therefore, we declare that the following are subject to excommunications

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latae sententiae especially reserved to the Roman Pontiff: I. "All those who have apostatized from the Christian faith, and all heretics, whether they are considered by any name, or belong to any sect, and those who believe in them, and all those who receive, support, and, in general, any defenders of them."

[*Latin ed. p. 307*]

VATICAN COUNCIL, 307 • II. "All and each who knowingly read, without the authority of the Apostolic See, books of those same apostates and heretics, and also books of any author specifically prohibited by Apostolic letters, and who retain, print, and in any way defend these same books (1)."

III. "Schismatics and those who pertinaciously refuse obedience to the Roman Pontiff currently in existence, or who withdraw from it."

IV. "All and each, of whatever state, rank, or condition, who call for a universal future Council by the orders or mandates of the Roman Pontiffs currently in existence, and also those who, by their help, counsel, or favor, have called for said Council."

V. "All who kill, mutilate, strike, capture, imprison, detain, or pursue with hostility, Cardinals, Patriarchs, Archbishops, Bishops, Legates or Nuncios of the Apostolic See, or those ejected from their dioceses, territories, lands, or dominions, and also those who command, approve, or provide assistance, counsel, or favor in these matters (1)."

In Article 2, a great abrogation of censures was made, and a simple principle was given, so that the censures imposed on books placed on the Index of Prohibited Books would cease, except for those mentioned in this article. Therefore, all other books placed on said Index cannot be read without grave sin; however, the readers and others to whom the prohibition extends will not incur censures. Furthermore, those who print or cause to be printed books treating of sacred matters without the permission of the Ordinary are excommunicated, but no one is reserved from this excommunication, as will be stated below.

[*Latin ed. p. 308*]

308 FROM THE ACTS VI: "Those who directly or indirectly impede the exercise of ecclesiastical jurisdiction, whether in internal or external matters, and who, for this purpose, resort to secular courts, and who, by providing assistance, counsel, or favor, comply with the mandates of that court (1). VII. "Those who compel, directly or indirectly, lay judges to bring ecclesiastical persons before their tribunal, contrary to canonical provisions (2); also, those who enact laws or decrees contrary to the freedom or rights of the Church. VIII. "Those who appeal to secular authority to impede letters or acts of any kind issued by the Apostolic See, or by its Legates or Delegates, directly or indirectly prohibiting their promulgation or exe-

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cution, or who, for this reason, injure or intimidate the parties involved or others (3). IX. "All those who forge Apostolic documents, even in the form of briefs and petitions concerning grace or justice, signed by the Roman Pontiff, or by His Eminence's Vice-Chancellors or those acting in their stead, or signed by order of the aforementioned Roman Pontiff; also, those who falsely publish Apostolic documents, even in the form of briefs, and those who falsely sign such petitions under the name of the Roman Pontiff or the aforementioned Vice-Chancellors or those acting in their stead. (1) Article 6 refers to what I wrote in Volume I, pages 567 and following, concerning appeals to secular courts in ecclesiastical matters. (2) The words "contrary to canonical provisions" refer to the Concordats between the Governments and the Apostolic See, which remain in force. (3) An example of this article (which is very similar to Article 6) is indicated in these periodicals in Volume IV, page 147, in a note."

[*Latin ed. p. 309*]

VATICAN COUNCIL 309: "Those who are complicit in a shameful sin, even in the hour of death, if another priest, even if not approved for hearing confessions, can, without any serious resulting infamy or scandal, receive the confession of the dying person (1)."

XI. "Those who usurp or seize jurisdiction, goods, revenues, pertaining to ecclesiastical persons by reason of their churches or benefices (2)."

XII. "Those who invade, destroy, or retain, either by themselves or through others, states, lands, or places belonging to the Church of Rome; or who usurp, disturb, or retain supreme jurisdiction therein; nor also those who offer assistance, counsel, or favor in any of the aforementioned matters (3)."

"From all of these, the absolution is reserved to the Roman Pontiff by a special manner, and it is to remain so reserved; and we declare that no general concession to absolve from cases, censures, or excommunications reserved to the Roman Pontiff will suffice in any way, and we moreover revoke, with respect to these, any indulgences whatsoever granted under any form and to any persons, even religious of any order, congregation, society, and institute, even those worthy of special mention and constituted in any dignity. But those who presume to absolve without due authority, even in any circumstance..."

(1) Regarding this Article 10, it is necessary to recall the Instruction of the Holy Inquisition, which I published in Volume III, page 499 and following, as well as the Decree, which I presented in Volume II, page 673.

(2) Concerning this Article 11, we have a public example in those matters which are occurring in Italy, and it is relevant to mention the Consistorial Address given on September 22, 1867, which I published in Volume III, page 113 and following.

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(3) In comparison with this Article 12, compare the responses of the Holy Penitentiary, which I published in Volume I, page 557 and following, and other responses which I presented in Volume II, page 678 and following.

[*Latin ed. p. 310*]

810 From the text of the acts, let those who are bound by the bond of excommunication, reserved to the Roman Pontiff, know this, unless it concerns the article of death, in which case, however, the obligation to stand by the mandates of the Church remains, if they have recovered. Excommunications of perpetual sentence, reserved to the Roman Pontiff. "We declare that the following are subject to excommunications of perpetual sentence, reserved to the Roman Pontiff: I. "Those who teach or defend, publicly or privately, propositions condemned by the Apostolic See, under the penalty of perpetual excommunication; also, those who teach or defend as a licit practice the inquiry of a penitent concerning the name of a complice, as condemned by Benedict XIV, in the Constitution *Suprema*, July 7, 1745; *Ubi Primum*, July 2, 1746; *Ad Eradicandum*, September 28, 1746 (1). (i) Benedict XIV, in the Constitution *Suprema*, writing to the Portuguese, reproved this practice of inquiring of a penitent concerning the name or individual person of a complice, with these words: "We wish you to know that the aforementioned practice, which we have mentioned above, is to be thoroughly condemned, and that we, by these present letters, condemn and reject it as scandalous and pernicious, and as harmful to the reputation of those nearby, as well as to the Sacrament itself, and as tending to alienate the faithful from the very benefit and necessary use of the Sacrament of Penance." In the Constitution *Ubi Primum*, the same Pontiff, confirming the previous Constitution, decreed the following sanctions among others: "We decree and ordain that whoever... shall hereafter dare to teach that such practice is licit, as it is explained and condemned in our aforementioned Brief; or to write or presume to defend this condemned practice, or to impugn or recklessly distort or interpret those things which are decreed in the aforementioned Brief against this practice, shall, by such act, incur excommunication, from which he cannot be absolved, except in the article of death, by any other person, however eminent in dignity or supported by authority, unless by Us or by the Roman Pontiff then in office." In the Constitution *Ad Eradicandum*, the Pontiff, against the erroneous opinions of those who taught that these Constitutions extended beyond Portugal to which they were sent, declared as follows: "We decree and declare that the aforementioned practice is itself and everywhere, reprobated and condemned by the Apostolic Authority, and ought to be considered as such..."

[*Latin ed. p. 311*]

VATICAN COUNCIL, Canons 31 and 32. "I. Those who, incited by the

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devil, inflict violent acts upon Clerics, or Monks of either sex, except in cases and concerning persons for whom it is permitted by law or privilege, that a Bishop or another may absolve them. II. Those who perpetrate duels, or simply provoke them, or accept them, and all accomplices, or those who provide any assistance or favor, as well as those who witness such duels and permit them, or, as far as is in their power, do not prevent them, whatever their dignity may be, even if they are of royal or imperial rank. III. Those who give the name to the Masonic sect, or the Carbonari, or to other sects of the same kind which plot against the Church or legitimate authorities, openly or secretly, as well as those who provide any kind of favor to such sects; and those who do not denounce their secret leaders and chiefs, until they have denounced them (1). V. Those who order the violation of the immunity of ecclesiastical asylum, or who, with audacious temerity, violate it (2). VI. Those who violate the enclosure of nuns, of whatever kind or condition, sex, or age, by entering their monasteries without legitimate license; and likewise those who introduce them (1).

(1) See the documents which I cited on this matter in Vol. I, p. 290, 193, and 301. Note also how limited is the obligation to denounce sectaries, which is restricted to denouncing only the secret leaders and chiefs if they are hidden (2). You have an example of the violation of asylum in the case which I cited in Vol. II, pages 45 and following.

[*Latin ed. p. 312*]

FROM the acts, those admitting [women], as well as nuns departing from that place [Kosso] and not conforming to the form prescribed by St. Pius V in the Constitution *Decori* (1). VII. "Women violating the enclosure of religious men, and superiors or others admitting them. VIII. "Those guilty of simony in any benefice, and their accomplices. (1) St. Pius V, in the Constitution *Decori* published on January 24, 1570, decreed: "§ 1. It is a matter fraught with danger and scandal, and it greatly opposes regular observance, when certain religious women, parents, brothers, sisters, or other relatives or connections, as well as monasteries and other foundations, even those subject to them, visit, or, under the pretext of infirmity or some other reason, leave the monasteries, and wander about in the homes of lay people, thereby exposing even the most outstanding examples of virtue, honor, and modesty to danger. "§ 2. Therefore, wishing to remedy this, in fulfillment of our pastoral office, and also referring to the decree of the Holy Council of Trent concerning the enclosure of nuns, and to other letters of ours issued concerning the observance of this enclosure, we decree, declare, and ordain that no abbesses, prioresses, or other nuns, even of the Carthusian, Cistercian, Benedictine, and Mendicant orders, and of whatever other orders, even military and secular ones, of whatever rank, condition, status, dignity, or prominence, even those descended from royal or illustrious families, shall henceforth, under any pretext, even under the

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pretext of infirmity, visit monasteries, even those subject to them, or the homes of parents or other relatives, or under any other occasion or pretext, unless it is for the cause of a great fire, or of infirmity, leprosy, or epidemic, which, however, in the case of infirmity, besides other superiors of the orders to whom the care of the monasteries belongs, must also be known and expressly approved in writing by the Bishop or other Ordinary of the place, even if the aforementioned monasteries are found to be exempt from the jurisdiction of Bishops and Ordinaries; and in such cases, and no others, it is permissible to remain outside for a necessary time; otherwise, those who allow nuns to leave, or who grant permission for them to leave in any way, as well as those who accompany them, and those who receive them, whether lay, secular, or ecclesiastical, relatives or not, shall immediately be subject to the bond of excommunication *majoris latae sententiae*, from which they cannot be absolved, except by the Roman Pontiff, or at the point of death." These, however, are now abrogated.

[*Latin ed. p. 313*]

VATICAN COUNCIL, Session III, Decree IX: "Those guilty of simony, whether in secret or openly, in any office whatsoever." X. "Those guilty of actual simony through entry into a religious order." XI. "All those who, by seeking gain from indulgences and other spiritual graces, are subject to the censure of excommunication, according to the Constitution *Quam plenum* of St. Pius V, dated January 2, 1569." (1) (1) "Those who are subject to excommunication according to the Constitution *Quam plenum* of St. Pius V, issued on January % 1569, are under the jurisdiction of the Bishops." The Pope, in this Constitution, recounts certain abuses that have arisen from the granting of certain faculties, and declares these concessions invalid, and finally establishes penalties in this manner: "§ 1. We have heard of a truly scandalous thing, that certain prelates of the churches of Hispaniae, and even formerly Gomentius Tellezgiron, a temporary administrator, which is more to be detested, and a simple administrator of the church of Toletanae, abusing the grace freely received under the guise of piety, and exceeding the faculties granted to them by the sacred canons, have dared to publish their letters in their cities and dioceses, in which, among other dangers, it is stated that anyone who receives certain letters will be permitted to choose any priest he wishes, who, after hearing his confession, will be able to absolve him, not only in those cases in which a simple priest can absolve, but also in those which are reserved to Bishops alone, with some further circumstance added, which would certainly be a matter for the examination of this Holy See." "§ 2. Furthermore, these same individuals, being exceedingly prodigal in dispensing the gifts of heavenly grace, lavish indulgences and remissions of prescribed penances to those who receive these aforementioned letters, without any connection to temporal matters, and distribute them profusely and indiscriminately, with

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which, and with other aforementioned licenses, many weak and unstable individuals, led by the ease of obtaining forgiveness, become more inclined to sin, when they can acquire the remission of so many and such sins at a certain and very low price; and furthermore, they have ordered that a list of cases and indulgences be appended to the sacred buildings, so that buyers may seek them out, when it is plainly stated that those who pay the aforementioned sum will receive them." "§ 3. Also, the sacrifice of the Mass, burial during the time of interdict, the use of prohibited foods, the admission of two or more godparents for the sacred baptism, contrary to the Decree..."

[*Latin ed. p. 314*]

FROM THE ACTS. XII. "Those who collect alms of greater value for Masses, and from these obtain profit, by having them celebrated in places where the stipends for Masses are usually of lesser value. XIII. "All those who are punished with excommunication, in the Constitutions of St. Pius V, are warned by the fourth of the Kalends of April, 1567, by Innocent IX; which from this See, on the day before the Nones of November, 1591, by Clement VIII; to Rome, under the care of the Pontiff, on June 26, 1592, and by Alexander VII, among others, on the ninth of the Kalends of November, 1660, at the Council of Trent, except those who, as they say, obtain absolution from the guilt of simony from the Apostolic See, alleging the repair of churches and pious causes, so that they may appear, with honest pretense, to have overcome the vice of cupidity. § 4. "Therefore, among other scandals, the wickedness of simony also clearly manifests itself, and contrary to the aforementioned Decrees of the sacred Council of Trent and other canonical sanctions, and furthermore contrary to our Constitution regarding indulgences not to be sold for money; the authority of the keys weakens, and the penitential satisfaction is rendered ineffective; we consider it necessary to remedy these evils with swift action, and to prevent such things in the future, therefore, by our own authority and with full knowledge and by the fullness of the Apostolic power, in addition to all the aforementioned, we condemn and abhor, and perpetually abolish, all those things which have been issued, or will be issued, in the very Archbishopric of Toletum, and in any other cities, dioceses, and places, whether of Spain or of any other provinces and regions, even under the pretext of establishing confraternities or by any other means whatsoever; and we declare them to be null and void, now and forever, by these letters and decrees. § 5. "Furthermore, all writings and monuments, whether public or private, which have been produced by the local Ordinaries and other church officials, wherever they may be found, must be torn, completely broken, and utterly destroyed; and in order that such things may not be done by anyone in the future, we strictly forbid them to be published or granted. § 6. "Whoever, even if they hold the honor of the Cardinalate, acts

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or attempts to act in this manner, shall be suspended from the enjoyment and receipt of the fruits of their churches until, with prior satisfaction, the aforementioned suspension is lifted by the aforementioned See; and those of lower rank shall incur the sentence of excommunication by the Bishops, from which they may not obtain the benefit of absolution except in the hour of death, and only from someone other than the Roman Pontiff."

[*Latin ed. p. 315*]

OF THE COUNCIL OF VATICAN, concerning the nation and enfeoffment of the States and Places of the Holy Roman Church (1). (1) In the Constitution *Admonet*, most solemnly issued by Pope Pius V, all those are punished with an excommunication who, whether by themselves or through others, strive to effect, or seek to suggest or persuade the Roman Pontiff to alienate or enfeoff States or Places belonging to the Holy See, under any pretext, even under the pretext of necessity or evident utility. Thus, the Constitution states: "§ 3. We decree and ordain that all and each, whether Communities and Universities, or citizens and inhabitants of the aforementioned States and Places (which are subject to the Holy See in temporal matters), and all other persons, whether ecclesiastical or secular, of any dignity and order, even of the episcopal or higher rank, existing, and the Cardinals of the Holy Roman Church, whether publicly in the councils of the aforementioned States and Places, or privately elsewhere in any places, even if Governors or Apostolic Legates or Pro-Legates of the same States and territories are present, or if they are treating, consulting, or speaking words concerning enfeoffments or alienations of the aforementioned States and Places, immediately pertaining to Us and the aforementioned See, even if devolved, even if commonly and repeatedly given in fief, even for the sake of exchange or under an annual rent or canon, or in any other way, even with the consideration of merits towards the aforementioned See, or under the pretext of necessity or evident utility, or concerning requests made by Us and the aforementioned See from any person, of any dignity, status, or rank, even those joined to Us and Our successors in the flesh, even Cardinals of the Holy Roman Church, or holding any other temporal or ecclesiastical dignity, as Governors, Vicars, or any other title, for life or perpetually or for a long time, or even at the pleasure of the Apostolic See, of the aforementioned States and Places, and therefore concerning the selection of orators to Us and Our successors regarding the aforementioned matters or on their occasion, those who propose, whether themselves or the orators receiving such a mandate, or any other who effect such alienations to the Roman Pontiff for the time being, whether by themselves or through another or others, by suggesting or persuading, incur the sentence of excommunication, from which they cannot be absolved, except by the Pontiff himself, except at the point of death." Pope Innocent IX, in the Constitution *Quae ab hac Sancta Sede*, included the entire Constitution

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Admonet of Pope Pius V in the first secret Consistory after his election to the Pontificate, and recalling that Gregory XIII, Sixtus V, and Gregory XIV had sworn to observe the same, and had approved, confirmed, and renewed it, thus Pope Innocent himself again approved, confirmed, renewed, and further explained the prohibition of enfeoffing and alienating the aforementioned States, lands, and places. Pope Clement VIII, in the Constitution *Ad Romani Pontificis curam*, again confirmed both Constitutions; indeed, he repealed a certain regulation introduced by Gregory XIV, and explained how, under oath...

[*Latin ed. p. 316*]

316 FROM ACTS XIV: "Religious persons, whether clerics or laity, are forbidden to administer the Sacrament of Extreme Unction or the Eucharist as viaticum outside of Kosso, without the permission of the parish priest.

XV. "Those who, without legitimate permission, remove relics from the sacred cemeteries or catacombs of the City of Rome and its territory, or who provide assistance or favor to them.

XVI. "Those who communicate with a person explicitly excommunicated by the Pope for a criminal offense, that is, who provide assistance or favor to him (1).

XVII. "Clerics who knowingly and willingly communicate in divine matters with persons explicitly excommunicated by the Roman Pontiff, and who receive them into their offices. It may happen that cases of necessity and evident utility arise concerning the alienation of states and places, and therefore, with these words: "Since such cases of absolute necessity, or of true and evident utility, are more easily conceived and imagined in the mind and soul than they can come about in practice, it is much more prudent to completely prohibit all alienation and investiture, the postponement of obligations, and other concessions, in whatever way and under whatever causes and pretexts, than to leave open the way for the rarest of cases, which scarcely ever occur."

Alexander VII, in the Constitution *Inter ceteras*, referring again to the aforementioned constitutions, declared and confirmed more explicitly.

(1) Thus, for example, all are excommunicated who provide assistance or favor to that most valiant priest, called Cyrinus Rinaldi, who, as a judge of the extinct Kingdom of Sicily, was explicitly excommunicated by the Supreme Pontiff and separated from the body of the Church by Apostolic Letters, which we cited in Volume IV, page 118 and following, and who is still said to be attempting (as we heard from someone who came from Sicily to Rome) violent acts of apparent jurisdiction; whose heroic fortitude all, throughout the entire world (and in other places as well!), will admire. He exercises legitimate authority, just as those do who, in theaters, portray

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magistrates or kings or emperors.

[*Latin ed. p. 317*]

From the Council of VATICANI, 317. Excommunications of Latent (or Definite) Sentence Reserved to Bishops or Ordinaries. "We declare that the following are subject to excommunications of latent sentence, reserved to Bishops or Ordinaries: I. Clerics constituted in the Sacred Orders, or Regular or Monastic persons, presuming to contract marriage after a solemn vow of chastity; as well as all those presuming to contract marriage with any of the aforementioned persons. II. Those who procure an abortion, with the consequence following. III. Those who knowingly use false Apostolic letters, or who cooperate in such a crime. Excommunications of Latent Sentence Not Reserved to Anyone. "We declare that the following are subject to excommunications of latent sentence, not reserved to anyone: I. Those who command or compel the notorious heretics or those specifically excommunicated or interdicted to be delivered to the ecclesiastical burial. II. Those who kill or terrify inquisitors, denouncers, witnesses, or other ministers of the Holy Office; or who tear apart, or burn, the writings of the aforementioned Sacred Tribunal; or who provide assistance, counsel, or favor to any of the aforementioned.

[*Latin ed. p. 318*]

318 FROM THE ACTS III: "Those who alienate and presume to receive ecclesiastical goods without Apostolic approval, are subject to the form of the Extravagant *Ambitiosae De Reb. Ecc. non alienandis* (1). (1) The Constitution *Ambitiosae*, which is read in the Sixth Book of Decretals, book 3, Extravagant, chapter one, concerning ecclesiastical goods not to be alienated, was issued by Pope Paul II in the year 1467, and is frequently cited whenever contracts concerning ecclesiastical goods are discussed. Its text is as follows: "Desirous of preventing that ambitious cupidity, especially among those who, with damnation postponed, apply to profane uses movable and valuable goods dedicated to God, from which Churches, monasteries, and pious places are governed, illuminated, and the sustenance of their ministers is obtained, and who presume to seize them by all means, even to the greatest detriment of the divine cult, we decree that the alienation of all ecclesiastical goods and possessions, and every agreement by which the ownership of these goods is transferred, whether by grant, mortgage, lease, or contract for more than three years, nor also by enfeoffment or an emphyteutic contract, except in cases expressly provided by law, and concerning goods and possessions which have been customarily granted in emphyteusis from ancient times, and then for the benefit of the Church, and concerning fruits and goods which cannot be preserved without being used, for the exigency of the present time, are prohibited by this Constitution, which shall remain in force perpetually. The prohibitions, decrees,

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and other enactments of our predecessors concerning this matter, which are renewed by the present document, shall nevertheless remain in full force. If anyone should presume to alienate anything concerning the aforementioned goods and possessions in violation of this our prohibition, such alienation, mortgage, grant, lease, contract, and enfeoffment shall be utterly void and of no effect. And both the one who alienates, and the one who receives the goods alienated, shall incur the sentence of excommunication. But if anyone, without consulting the Roman Pontiff, or contrary to the tenor of this Constitution, alienates the goods of any Church, monastery, or pious place, and if he holds a pontifical or abbatial dignity, he shall be utterly excluded from the Church. And if, within six months immediately following such an act, he perseveres in this, may it be far from us, he shall, during those same months, be suspended from the governance and administration of his Church or monastery, to which he presides, both in spiritual and temporal matters. Lower prelates, commendatories, and other rectors of churches who hold any benefice or administration, whether as priors, superiors, or in any other dignity, office, or administration, whether with or without cure of souls, in secular or regular benefices, whose goods and possessions have been alienated, shall, by this very act, be deprived of their benefice or administration: and such benefice or administration shall be vacant without any declaration."

[*Latin ed. p. 319*]

VATICAN COUNCIL, Session 319, IV: "Those who, negligently or culpably, fail to report within one month Confessors or Priests from whom they have been solicited, concerning the shameful acts expressly mentioned in the decrees of Our Predecessors Gregory XV, in the Constitution *Universi*, dated August 20, 1622, and Benedict XIV, in the Constitution *Sacramentum poenitentiae*, dated June 1, 1741 (1), shall be subject to penalties. Furthermore, those who are considered to be reserved for absolution either to the Supreme Pontiff or to Ordinaries, or without any reservation whatsoever, may, by the local Ordinaries, or by others to whom such matters pertain, be freely granted, to suitable persons (with the exception of those who have been deprived of this right), unless otherwise expressly or generally reserved by the Apostolic See. Nevertheless, alienated property and goods of this kind shall freely revert to Churches, Monasteries, and pious institutions to which they belonged before such alienation. Therefore, no human being whatsoever may infringe this prohibition and innovation, or dare to oppose it with reckless audacity. If anyone should attempt to do so, let them know that they will incur the wrath of Almighty God and of the Blessed Apostles Peter and Paul. Given in Rome, at St. Mark's, in the year of the Incarnation 1967, in the third year of Our Pontificate. The penalty that remains is excommunication."

(1) The acts expressly mentioned in the Constitution of Gregory XV,

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Universi, are as follows:

"§ 4.... We decree and declare that all and each Priests, whether secular or belonging to any Order, Institution, Society, or Congregation, whatever their dignity or eminence, or whatever privileges they may possess, who shall have attempted to solicit or provoke any person, whatever that person may be, to commit dishonest acts, either with each other or with others, in the course of sacramental Confession, or immediately before or after such Confession, or by occasion or pretext of such Confession, or even if the Confession does not follow such solicitation, or outside the occasion of Confession, in the Confessional or in any other place where sacramental Confessions are heard, or who shall simulate being there to hear Confessions, or who shall have had illicit and dishonest conversations or dealings with such persons, shall be subject to penalties.

"§ 7. We command all Confessors to warn their penitents, whom they know to have been solicited as aforesaid, of the obligation to report those who solicited them..."

The acts expressly mentioned in the Constitution of Benedict XIV, *Sacramentum poenitentiae*, are as follows:

"Those who shall solicit any penitent, whatever that person may be, either in the course of sacramental Confession, or before or immediately after Confession, or by occasion or pretext of Confession, or even..."

[*Latin ed. p. 320*]

320 FROM THE ACTS, it is reported that We likewise declare those to be excommunicated; except for the penalty of anathema established in the Decree of Session IV, concerning the publication and use of Sacred Books, to which We intend only those to be subject who print, or cause to be printed, books concerning sacred matters without the approval of the Ordinary. Here, "we pause briefly, to insert the penalties of excommunication imposed by the Council of Trent, with the reservations added by it, and then we shall proceed to explain the Constitution about which we are speaking. For the benefit of our readers, we have sought out these penalties of excommunication in the Decrees of Trent, so that they may have them before their eyes along with the very words of the Council of Trent. And since the penalty of anathema is excepted in the Decree of Session IV, and is, as to its extent, restricted, it is also fitting to bring forward this Decree of Trent, so that the limitation may be better understood. That which immediately follows is: EXCOMMUNICATIONS LAID DOWN BY THE COUNCIL OF TRENT, Session 4, from the Decree concerning the publication and use of sacred books. "No one shall be permitted to print or cause to be printed any books concerning sacred matters without the name of the author, nor shall they be sold in the future, or even kept by themselves, unless they have first been examined and approved by the Ordinary, under the penalty of anathema and a fine established in the canon of the most recent Council

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of the Lateran. And if they are religious, in addition to the examination and approval, they must also obtain permission for such a license from their superiors, having shown them the books according to the form of their regulations. And those who communicate or publish them in writing, unless they have first been examined and approved, shall be subject to the same penalties as the printers. And those who have them or read them, unless they reveal the authors, shall be considered as authors." Outside of the occasion of Confession, in the Confessional, or in another place designated for hearing Confessions, or by feigning to hear a Confession there, if anyone, by words, or by signs, or by gestures, or by posture, or by writing, has attempted, either then or after reading, to solicit or provoke dishonorable and shameful acts, or has had illicit and dishonorable conversations or dealings with them by rash boldness.

[*Latin ed. p. 321*]

From the Council of Vatican, Session 22, chapter 11, concerning reforms: "If any cleric or layperson, regardless of their position, even if holding imperial or royal rank, has been so overcome by the root of all evils, namely avarice, that they presume to seize the jurisdictions, goods, revenues, and rights of a church, or of any secular or regular benefice, of pious foundations, or other sacred places, including feudal and emphyteutical holdings, fruits, emoluments, or any other gains, which ought to be converted to the needs of the clergy and the poor, either by themselves or through others, by force or intimidation, or even through supposed persons, whether clerics or laypersons, or by any artifice or deceitful pretense, and to use them for their own purposes, or to prevent them from being received by those to whom they rightfully belong, let that person be subject to an anathema for as long as they have not fully restored to the church and its administrator, or to the beneficiary, all the jurisdictions, goods, possessions, rights, fruits, and revenues that they have seized, or which have come to them in any way, even through a donation from a supposed person, and afterwards obtain absolution from the Roman Pontiff. Furthermore, let the cleric who has been the author or accomplice of such a heinous fraud and usurpation be subject to the same penalties."

Regarding a magistrate who, at the request of a bishop, does not provide assistance against those who oppose the closure of monasteries, or who violate such closures, Session 15, chapter 5, concerning regulations: "Renewing the Constitution of Boniface VIII, which begins with the words 'Periculoso,' the Holy Synod commands all bishops, under the threat of divine judgment and the penalty of eternal damnation, to diligently ensure that the enclosure of monasteries subject to them is properly maintained, and where it has been violated, to restore it diligently; and to ensure that where it remains inviolate, it is preserved. Those who disobey and oppose

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[this] shall be excommunicated." *Acta, volume V, page 21.*

[*Latin ed. p. 322*]

322 By means of ecclesiastical censures and other penalties, whatever appellation they may bear, and even, if necessary, with the aid of secular authority, all Christians are urged by the Holy Synod to take action. And the Holy Synod commands all secular magistrates, under the penalty of excommunication incurred by the very act, to provide this assistance. Session 25, from chapter 5 concerning Regulations: "But it is not permitted to anyone, of whatever kind or condition, sex or age, to enter within the walls of the monastery, without the written permission of the Bishop or Superior, under the penalty of excommunication incurred by the very act." Abductors of women and their accomplices are excommunicated. Session 24, from chapter 6 concerning Matrimonial Reforms: "The Holy Synod decrees that, between the abductor and the abducted, as long as the latter remains in the power of the abductor, no marriage can be valid. But if the abducted woman, having been separated from the abductor and placed in a safe and free location, considers him worthy to be her husband, then the abductor may take her as his wife; nevertheless, the abductor himself, and all those who have given him counsel, assistance, or favor, are, by law, excommunicated..." Those who violate the freedom of marriage are excommunicated. Session 24, from chapter 9 concerning Matrimonial Reforms: "Thus, very often, the minds and eyes of temporal lords and magistrates are blinded by worldly affections and desires, so that they compel men and women, living under their jurisdiction, especially those who are wealthy or who have the hope of a large inheritance, to enter into marriage against their will with those whom they themselves, the lords or magistrates, have prescribed. Therefore, since it is most wicked to violate the freedom of marriage, and because injustices arise from those from whom the laws are exceeded, the Holy Synod commands all, of whatever grade, dignity, or condition, under the penalty of anathema, which they incur by the very act, not to compel in any way, directly or indirectly, their subjects or any others, to prevent them from freely entering into marriage."

[*Latin ed. p. 323*]

VATICAN COUNCIL, Session 25, Chapter 18, concerning Regulations: "The Holy Synod places an anathema upon all and each person, of whatever quality or condition they may be, whether clerics or laity, secular or regular, and even those holding any office, if they have in any way compelled any virgin or widow, or any other woman, except in cases expressly stated in law (1), to enter a monastery or to take the habit of any religious order, or to make a profession, and those who have given counsel, aid, or favor, and those who, knowing that she is not freely entering the monastery or taking the habit, or making a profession, have in any way interposed

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themselves in that act, or have given their presence, consent, or authority. A similar anathema is placed upon those who have in any way hindered the will of a holy virgin or other woman to be received or to make a vow, without just cause."

(1) The cases expressly stated in law are reduced to these: In Chapter 18 concerning the Conversion of Married Couples, Innocent III is recorded as having written concerning this very case: "A. informed us that, when she, F., having given her consent to her husband to enter a religious order; with the vow of continence, and having received from her the faith that she would remain perpetually chaste, the aforementioned Dean, acting as the Vice-Archbishop of Sens in this matter, after the aforementioned husband had made his profession in the monastery where he had taken the habit, asserted that she ought to enter the religious order, although he had not initially expressed this to her, and that, having expressed it, he had not given her permission. Therefore, we command that, if this is the case, and if there is no suspicion that this is not the case, you not permit the aforementioned woman, who is observing the vow of continence, to be compelled to enter the monastery." From this chapter, the Glossa argues: "For since it is said that there should be no suspicion, she should not be compelled to enter; I understand that if there is suspicion, she should be compelled to enter the religious order, from which she promised continence." Furthermore, Gregory IX, in Chapter 19 of the same title, considered another case, and wrote as follows: "But women who, having fallen into carnal sin after leaving the marital bed, if their husbands, having been warned by you, do not, for the sake of God, wish to receive them back into their homes, you should arrange for them to be placed in monasteries with other religious women, so that they may perform perpetual penance there."

[*Latin ed. p. 324*]

324 FROM THE DECREES: Those who engage in duels, and all others who permit, assist, or support duels as a respectable spectacle, are excommunicated. Session 25, chapter 19, concerning Reforms: "Emperors, Kings, Dukes, Princes, Marquises, Counts, and all other temporal lords, who have granted a place for duels within their territories among Christians, are thereby excommunicated. Those who have committed a duel, and those who are called their sponsors, incur the penalty of excommunication... Furthermore, those who have given counsel in the matter of a duel, whether in law or in fact, or who have in any other way encouraged someone to engage in it, as well as spectators, are bound by the bonds of excommunication and perpetual anathema." Those are excommunicated who teach the following false propositions. Session 13, canon 11, concerning the Eucharist: "Lest the Sacrament [of the Eucharist] be taken unworthily, and therefore to death and condemnation, the Holy Synod has decreed and declared that those who are burdened by the conscience of mortal sin, however contrite they

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may consider themselves, must, if a confessor is available, necessarily precede [receiving Communion] with the Sacrament of Confession. If anyone should presume to teach, preach, or stubbornly assert the contrary, or even publicly defend it in argument, let him be excommunicated." Session 24, chapter 1, concerning Matrimonial Reforms: "There is no doubt that clandestine marriages, made with the free consent of the contracting parties, are valid and true marriages, as long as the Church has not declared them invalid, and therefore, those who deny that they are true and valid are to be condemned by anathema by the Holy Synod, and those who falsely assert that marriages contracted by children of a family without the consent of their parents are invalid, and that parents can make such marriages valid or invalid." These are the excommunications that we find the Council of Trent has imposed. The following is the Constitution of the Most Holy Lord, which we have undertaken to reproduce.

[*Latin ed. p. 325*]

325. At the Council of VATICANI, the following suspensions are imposed by law, reserved to the Supreme Pontiff:

I. "Those who, by their very action, incur a suspension from receiving the revenues of their benefices, at the discretion of the Holy See, are the Chapters and Convocations of Churches and Monasteries, and all others who receive Bishops or other Prelates from the aforementioned Churches or Monasteries for their governance and administration, within the same Holy See, in any manner, before they have presented the apostolic letters of their promotion.

II. "By law, anyone who ordains another without a title to a benefice or patrimony, with the agreement that the ordained person will not request sustenance from them, incurs a suspension for three years from the conferral of orders.

III. "By law, anyone who ordains a subject of another, even under the pretext of immediately conferring a benefice, or one that has already been conferred but is by no means sufficient, without the dismissal letters of that Bishop, or even a subject of his own who has been delayed elsewhere for so long that he could have incurred a canonical impediment there, without the testimonial letters of the Ordinary of that place, incurs a suspension for one year from the administration of orders.

IV. "By law, anyone, except in the case of a legitimate privilege, who confers a sacred order without a title to a benefice or patrimony to a cleric living in a Congregation in which solemn vows are not taken, or even to a religious who has not yet made vows, incurs a suspension for one year from the conferral of orders.

V. "Religious who have been expelled and are living outside their religious order incur a perpetual suspension from the exercise of orders, by

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law."

[*Latin ed. p. 326*]

FROM THE ACTS VI: "Those who presumptuously receive into the Order someone who has been received by an excommunicated or suspended person, or by one expressly denounced as interdicted, or by a notorious heretic or schismatic, incur, by the very fact, a suspension from the Order. However, we declare that one who, in good faith, has been ordained by any of these, does not possess the exercise of the Order thus received, until a dispensation is granted. VII. "Secular clergy ordained outside of Rome, residing there for more than four months, by someone other than their own Ordinary, without the license of the Cardinal Vicar of Rome, or without a prior examination completed before him, or even by their own Ordinary after having been rejected in the aforementioned examination; and also, clergy belonging to any of the six suburban dioceses, if they are ordained outside of their own diocese, and their dismissal is directed to another, other than the Cardinal Vicar of Rome; or who, without having previously undergone the spiritual exercises for ten days in the urban house of the Sacerdoti called the Mission, before receiving Holy Orders, incur, by the very fact, a suspension from the Orders thus received, to the satisfaction of the Holy See. However, the bishops who ordain incur a suspension from the use of pontifical functions for one year. The interdict of latae sententiae is reserved. I. "Universities, colleges, and chapters, whatever their name may be, incur, by the very fact, an interdict, specially reserved to the Roman Pontiff, if they call a general council, by any means, contrary to the ordinances or mandates of the same Roman Pontiff, for the time being in existence, concerning the universal future council. (1) See the documents and other matters pertaining to this, which I have explained in Volume II, pages 585 and following.

[*Latin ed. p. 327*]

327 The Council of the Vatican decrees: "Those who, knowingly celebrating or causing to be celebrated, divine services in places prohibited by the Ordinary, or by a delegated Judge, or who admit to divine services, or ecclesiastical sacraments, or ecclesiastical burial, those expressly excommunicated, incur by their own action the interdict, until they have, to the satisfaction of him whose judgment they have contemned, duly made amends at his discretion." Furthermore, whatever others the Most Holy Council of Trent has decreed to be suspended or interdicted by law, We likewise declare that they are subject to the same suspension or interdict, and We pause for a moment to reiterate the suspensions or interdicts issued by the Council of Trent, so that the Readers may have these canonical censures before their eyes; and We abstain from any interpretation, as We have done in referring to the excommunications issued by the same Council.

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ON SUSPENSIONS AND INTERDICTS ISSUED BY THE COUNCIL OF TRENT:

Those are suspended or interdicted who, in various ways, violate the canons concerning holy Orders.

Session 23, chapter 8, concerning reforms: "Let each one be ordained by his own Bishop. But if anyone requests to be promoted by another, let this not be permitted to him, under any pretext, even by virtue of any general or special rescript or privilege, even for a limited time, unless his probity and conduct are attested by his own Ordinary. If this is done, the ordaining priest shall be suspended from conferring Orders for a year, and the one ordained shall be suspended from exercising the Orders he has received, for as long as it seems expedient to his own Ordinary."

Session 23, chapter 14, concerning reforms: "But with regard to those promoted without due process, if they have not ministered, the Bishop may, for a legitimate reason, grant a dispensation."

[*Latin ed. p. 328*]

328 FROM THE ACTS, Session 7, chapter 10, concerning Reforms: "It is not permitted to the Chapters, while the See is vacant, within one year from the day of the vacancy, to grant licenses, or dismissal letters, or, as some call them, reverend letters, to anyone who has not been, or is not to be, canonically admitted to, or received into, an ecclesiastical benefice, whether by common law, or by the force of any privilege or custom. If this is done, the Chapter transgressing is subject to ecclesiastical interdict, and those ordained in this manner, if they have been constituted in the minor orders, shall not enjoy any clerical privilege, especially in criminal matters; and in the major orders, they are, by law, suspended from the execution of the orders, at the discretion of the future Prelate." Session 6, chapter 5, concerning Reforms: "No Bishop is permitted, under the pretext of any privilege, to exercise pontifical functions in another diocese, unless with the express permission of the Ordinary of that place, and only concerning those who are subject to that Ordinary. If this is done, the Bishop is, by law, suspended from the exercise of pontifical functions, and those ordained in this manner are suspended from the execution of the orders." Session 23, chapter 10, concerning Reforms: "To Abbots and others, whatever their status, even if exempt, it is not permitted, henceforth, within the boundaries of any diocese, even if they claim to be of no diocese or exempt, to confer the Tonsure or the minor orders upon anyone who is not subject to their rule; nor may the Abbots and others, or any colleges or Chapters, even of cathedral churches, grant dismissal letters to secular clergy, so that they may be ordained by others. But all such ordinations, with all due observance, shall pertain to the Bishops, within whose diocesan boundaries they exist; notwithstanding any privileges, prescriptions, or customs, even those of

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long standing. The penalty imposed on those who, contrary to the Decree of this Holy Synod, under Pope Paul III, (1) obtain dismissal letters from the episcopal Chapter while the See is vacant, shall also be extended to those who obtain the same letters, not from the Chapter, but from others who succeed the Chapter in the jurisdiction of the Bishop of Fismes. Those who grant dismissal letters contrary to the form of the Decree shall, by law, be suspended from office and benefice for one year." Session 14, from chapter 2, concerning Reforms: "No Bishop, who are called titulars, even if they are in a place that is not within any diocese, even an exempt one, or..."

(1) This Decree is that which is related above, in Session 7, chapter 10.

[*Latin ed. p. 329*]

"Those who, having withdrawn from any monastery of whatever order, or having delayed [their departure], by virtue of any privilege granted to them for promoting those who come to them for a time, may promote or ordain others to sacred or minor orders, or to the first tonsure, as subordinates, even under the pretext of continued familiarity and common meals, without the express consent of their own Prelate or dismissal letters, are suspended from the exercise of pontifical functions for a year; and those thus promoted are likewise suspended from the execution of the orders received, until their Prelate deems it otherwise, by the very law. Bishops are forbidden to fail in denouncing bishops who are illegally absent. Session 6, chapter 1, concerning Reforms. 'But if the contumacy [of the absent bishop] increases (beyond a period of six months), he shall be subjected to a more severe ecclesiastical censure, and the metropolitan shall denounce the suffragan bishop who is absent, and the suffragan bishop shall denounce the absent metropolitan, under pain of incurring the interdict of entering the church within three months, by letter or messenger, to the Roman Pontiff.' Session 25, chapter 14, concerning Reforms. 'Furthermore, bishops, may it be far from them, if they have not abstained from such a crime [as concubinage], and having been admonished by the provincial synod, have not reformed themselves, they shall be suspended by the very fact.' Thus far, concerning suspensions or interdicts imposed by the Council of Trent. Thus, the Constitution of the Most Holy Father, of which we are speaking, continues and concludes: 'But all those censures, or excommunications, or suspensions, or interdicts, which have been imposed by Our Constitutions, or by those of Our Predecessors, or by the sacred canons, other than those which we have enumerated, and which have remained in force to this day, whether for the election of the Roman Pontiff, or for the internal administration of any orders and regular institutions, as well as of any colleges, congregations, associations, and pious places of whatever name or kind,

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are all confirmed."

[*Latin ed. p. 330*]

330 We desire and declare that the following shall remain in force and maintain its validity. "Furthermore, we decree that in all new concessions and privileges that may be granted by the Apostolic See to anyone, the power to absolve from any censures reserved to the Roman Pontiff must never be understood or interpreted, nor can it be included, unless a formal, explicit, and individual mention of it has been made; those privileges or faculties, whether granted by Our predecessors, or even by Ourselves, to any Congregation, Order, Society, or Institute, even of any regular kind, even if endowed with a special title and worthy of special mention, which have been granted at any time up to now, We intend to revoke, suppress, and abolish all of them, and We do so, to the extent that We truly revoke, suppress, and abolish them, without any impediment or opposition from any privileges whatsoever, whether special or otherwise, included or not in the body of law, or in Apostolic Constitutions, or in any Apostolic confirmation, or in any memorable custom, or in any other form or tenor, and with any derogatory clauses, or other more effective and unusual clauses, all of which, as may be necessary, We intend to derogate from and do derogate from. "Nevertheless, We declare that the power to absolve from censures granted by the Council of Trent to Bishops, Session XXIV, chapter [reference], remains valid, with the exception of those censures which We have declared to be reserved in a special manner to the same Apostolic See. "We decree that these Letters, and all and each of the things contained therein, which are established and decreed, and all and each of the things made therein from previous Constitutions of Our predecessors, and also from Our own, or from other sacred Canons, even from the General Councils, and from the Council of Trent itself, are ratified and valid, and are respectively ratified and valid, and shall obtain their full and complete effect; and thus, and in no other way, in the premises, they must be judged and defined by any Ordinary Judges, and Delegates, including Auditors of the Palace of the Apostolic See, and Cardinals of the Holy Roman Church, even as Legates from the side, and Nuncios of the Apostolic See, and any others exercising or about to exercise any authority or power whatsoever, with the power and authority of judging and interpreting otherwise being removed from them and from each of them; and they shall be declared invalid and null."

[*Latin ed. p. 331*]

331. Whatever may have been, or may hereafter be, introduced by anyone, with any authority, even under the pretext of any privilege or custom, concerning these matters, which We declare to be an abuse, knowingly or unknowingly, nothing shall prevent this. "Notwithstanding the foregoing,

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and all other ordinances, constitutions, privileges, even those deserving of special and individual mention, as well as any customs whatsoever, even those of long standing, and all other contrary things whatsoever. " Therefore, it is not permitted to any human being whatsoever to infringe upon this page of Our Constitution, ordinance, limitation, suppression, derogation, or will, or to dare to contradict it with reckless audacity. If anyone should presume to attempt this, let him know that he will incur the indignation of Almighty God and of the Blessed Apostles Peter and Paul. " Given in Rome, at St. Peter's, in the year of the Incarnation of Our Lord, One Thousand Eight Hundred and Sixty-Nine, on the fourth day before the Kalends of October, in the twenty-fourth year of Our Pontificate. " M. CARD. MATTBI, Pro-Datary. N. CARD. PARACCIANI CLARELLI. Approved by the Curia, Dominic Bruti, at the Place of Lead. I. Cugnoni. CONCERNING THE THIRD GENERAL CONGREGATION. " A notification is to be made by a messenger, and a copy is to be left at home. " On Tuesday, December 20, 1869, at nine o'clock in the morning, a General Congregation will be held in the Hall of the Council, in which an election will be held for another Deputation for Ecclesiastical Discipline, according to number VII of the Apostolic Brief: Many, between the 27th of November of this year. The election will be made by secret ballots, so that each Father shall write on one ballot the names of twenty-four Fathers whom he considers worthy of being elected to such a Deputation. " From the Secretariat of the Vatican Council, December 17, 1869. " JOSEPH E P. S. HIPPOLYTI, Secretary of the Council.

[*Latin ed. p. 332*]

332 FROM THE PROCEEDINGS. On the 20th of December, the third general Congregation was held, presided over by the four Cardinals empowered by the Holy See. The Most Reverend Archbishop of Salzburg, Maximilian de Tarnoczy, celebrated the Holy Sacrifice of the Mass. After the prayers recited by the Most Reverend Cardinal Anthony De Duca, the senior Cardinal among the Presidents, the names of those Fathers were announced who, according to the lists presented at the general Congregation, had received the greatest number of votes for the composition of the Council on matters pertaining to the faith. The names of these delegates chosen by the Synod for the Council are as follows: DELEGATES ON MATTERS PERTAINING TO THE FAITH "After the scrutiny of the ballots, which were presented at the general Congregation held on the third day of the month of December," those who were found to have received the greatest number of votes were elected." THE REVEREND FATHERS: "1. Emmanuel Garcia Gil, Archbishop of Saragossa. 2. Louis Francis Pie, Bishop of Poitiers. 3. Patrick Leahy, Archbishop of Cassel. 4. Renatus Francis Régnier, Archbishop of Cambray. 5. John Simor, Archbishop of Gran. 6. Andrew Ignatius Schaepman, Archbishop of Utrecht. 7. Anthony Hassun,

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Patriarch of Cilicia of the Armenians. 8. Bartholomew D'Avanzo, Bishop of Calven and Teano. 9. Miecislaus Ledochowski, Archbishop of Gnesen and Posen. 10. Francis Emil Cugini, Archbishop of Modena. 11. Sebastian Dias Larangeira, Bishop of St. Peter of the Great River of Southern Brazil. 12. Ignatius Senestrey, Bishop of Ratisbon. 13. Victor Augustus Dechamps, Archbishop of Mechlin. 14. John Martin Spalding, Archbishop of Baltimore. 15. Anthony Monescillo, Bishop of Jaén."

[*Latin ed. p. 333*]

333 Of the Vatican Council: 16. Peter Joseph De Preux, Bishop of Sion; 17. Vincent Gasser, Bishop of Brixen; 18. Raphael Valentinus Valdivieso, Archbishop of Saint James of Chile; 19. Henry Edward Manning, Archbishop of Westminster; 20. Frederick Mary Zinelli, Bishop of Tarvisium; 21. Joseph Cardoni, Archbishop of Edessa; 22. Walter Steins, Archbishop of Boston; 23. Conrad Martin, Bishop of Paderborn; 24. Joseph Sant'Alemany, Archbishop of Saint Francis. "From the Secretariat of the Vatican Council, December 17, 1869." JOSEPH, BISHOP OF SAINT HIPPOLYTUS, Secretary of the Council. Then, the Fathers prepared secret documents for a second Council concerning matters pertaining to ecclesiastical discipline, according to the aforementioned notice, and furthermore, it was announced that on the twenty-eighth day, another General Congregation would be held to appoint another Council concerning matters pertaining to the Regular Orders; it was also announced that, in the same forthcoming Congregation, the Fathers who had requested it would speak about the initial proposed plan.

CONCERNING THE FOURTH GENERAL CONGREGATION: "A notice to be made by messengers, and also a copy delivered at home." "On Wednesday, December 28th, at the ninth hour of the morning, the General Congregation will be held, in which, after the collection of the documents for the election of the third Deputation concerning the matters of the Regular Orders, the Fathers who wish to speak about the proposed and distributed plan will be heard, according to number VII of the Apostolic Brief *Multiplices inter* of November 27th of this year. "From the Secretariat of the Vatican Council, December 21, 1869." JOSEPH, BISHOP OF SAINT HIPPOLYTUS, Secretary of the Council.

[*Latin ed. p. 334*]

334 FROM THE PROCEEDINGS: In this Congregation, after the Mass of the Holy Spirit had been celebrated by the Archbishop of Baltimore, John Martin Spalding, and after the customary prayers had been recited by the President, who is the senior Cardinal in dignity, the names of the Fathers were announced who, after a vote had been taken, had received the highest number of votes for membership in the Council, concerning which action had been taken in the preceding Congregation.

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These are as follows: DELEGATES FOR MATTERS OF ECCLESIASTICAL DISCIPLINE: "After the scrutiny of the ballots, which were presented at the General Congregation held on the second day of the twenty-second of the current month, those who were elected by the greater number of votes are as follows." REVEREND FATHERS: "1. John MacCloskey, Archbishop of New York. 2. William Ullathorne, Bishop of Birmingham. 3. John MacHale, Archbishop of Tuam. 4. Pelagius de Lavastida y Davalos, Archbishop of Mexico. 5. Pantaleon Monserrat y Navarro, Bishop of Barcelona. 6. Anastasius Yusto, Archbishop of Burgos. 7. Julius Arrigoni, Archbishop of Lucerne. 8. Francis Baillargeon, Archbishop of Quebec. 9. Paul Ballerini, Patriarch of Alexandria of the Latin Rite. 10. Claudius Plantier, Bishop of Nîmes. 11. Theodore de Montpellier, Bishop of Liège. 12. Stephen Marilley, Bishop of Lausanne and Geneva. 13. Francis Xavier Wierzchleyski, Bishop of Lviv of the Latin Rite. 14. George Stahl, Bishop of Würzburg. 15. John Ambrose Huerta, Bishop of Puno. 16. Charles Fillion, Bishop of Le Mans. 17. John Baptist Zwerger, Bishop of Seckau. 18. Nicholas Sergent, Bishop of Quimper-Léon.

[*Latin ed. p. 335*]

335. Of the Vatican Council: 19. Michael Heiss, Bishop of Crossensis; 20. Marianus Ricciardi, Archbishop of Reginensis; 21. Leo Meurin, Bishop of Ascalonensis; 22. Ioannes Çhittadauro di Reburdone, Bishop of Calatanisiadensis; 23. Marinus Marini, Archbishop and Metropolitan of Urbevetanus; 24. Iosephus Aggarbati, Bishop of Senogalliensis. "From the Secretariat of the Vatican Council, on the 23rd of December, 1869." IOSEPHUS E P. S. HIPPOLYTI, Secretary of the Council. After the publication of these names, the Fathers wrote down lists, inscribing each of the twenty-four names for the purpose of forming a Council concerning matters pertaining to the Regular Orders. After these lists were presented, the opinions of some of the Fathers regarding the initial proposed plan began to be made manifest. That is to say, those Fathers who had requested to speak, according to the norms of the Constitution *Multiplices*, began to speak, having been granted the opportunity by the Most Eminent President, Cardinal Antonino De Luca. These Fathers, most freely, one after another, ascended to the pulpit and spoke about the initial plan, which concerned a dogmatic matter; and at the same time, two stenographers, sitting nearby the pulpit, noted down everything that was said by the Fathers. Initially, fourteen Fathers were registered who had requested to speak, and these were subsequently increased, and in the Congregation concerning which we are speaking, only seven were able to speak, with no one responding to the opinions, whether for, or against, or even those that went beyond the plan presented; and this is observed in the other Congregations as well. The names of these seven who spoke are: The Most Reverend Cardinal Rauscher, Archbishop of Viennensis, and six Archbishops, namely: Kenrik, Archbishop of S. Ludovici in the

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United States of America; Tizzani, Archbishop of Nisibensis in the lands of the infidels; Apuzzo, Archbishop of Surrentinus; Spaccapietra, Archbishop of Smirnensis; Pace Forno, Archbishop and Bishop of Melitensis; and Connolly, Archbishop of Alifaxiensis in Nova Scotia. The Congregation, and also the fifth in order, continued on the 30th of December, in which the Holy Mass of the Descent of the Holy Spirit was celebrated, which was celebrated according to the Armenian rite by the Archbishop of Aleppensis, Gregorius Ba-.

[*Latin ed. p. 336*]

336 FROM the minutes of the meeting, they spoke of the same matter: Vanesa, Greek-Bohemian Archbishop of Fogaras, and Alba Iuliensis - Strossmayer, Bishop of Bosnia and Syrmia - Ginoulhiac, Bishop of Gratianopolis - Gaixal y Estrade, Bishop of Urgel. Again, the General Congregation, in the same order, was convened and extended to January 3, 1870, on which day the Archbishop of Valentinus, Marianus Barrio y Fernandez, celebrated Mass for the Holy Spirit. After the Mass, and after the customary prayer "Adsumus Domine," the Most Reverend First President, Cardinal Antoninus De Luca, rising, and after ringing the customary bell, announced to the Fathers the death of two Cardinals, Charles de Beisach and Francis Pentini, and of two Bishops, namely, Anthony Manastyrski, Bishop of Premisliensis of the Latin rite, and Bernardinus Frascolla, Bishop of Fodiana, in these words: "Reverend Fathers, you know from what point the Oecumenical Council of Vatican began; four Fathers have passed away, namely, the Most Reverend Charles Augustus de Reisach, Bishop of Sabina, and the First President of our General Congregations, the Most Reverend Francis Pentini, Deacon of St. Mary in Porticu, the Reverend Anthony Manastyrski, Bishop of Premisliensis of the Latin rite, and the Reverend Bernardinus Frascolla, Bishop of Fodiana. The Christian virtues and the illustrious merits which they possessed towards the Holy Church of God and this Apostolic See, with which they were most abundantly adorned, give us certain and sweet hope that their souls now enjoy eternal rest in the embrace of the Lord, and that through their intercession with God, they will favor our labors. However, since it is the frailty of human nature that they may still perhaps need our prayers, let us not fail to commend them earnestly to the divine mercy. "Furthermore, we are pleased to inform the Reverend Fathers that, in place of the deceased Cardinal de Reisach, one of the Presidents of the General Congregations, the Most Reverend Cardinal Philip De Angelis, Camerlengo of the Holy Roman Church and Archbishop of Firman, has been elected by the Most Holy Lord through Apostolic letters dated December 30th. And the Reverend Under-Secretary will read the

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aforementioned Apostolic letters."

[*Latin ed. p. 337*]

VATICAN COUNCIL, 337. After the Sub-Secretary of the Council, having read aloud from the pulpit the Apostolic Letters, presented in the *forma* of a Brief, the first President announced to the Synodus Sanctissimus Dominus that, according to Article VII of the Constitution, two Cardinals had been designated by two chirographs dated December 29th, namely, His Eminence Cardinal Aloysius Bilio, who will preside over the Council concerning matters pertaining to the faith, and His Eminence Cardinal Prosper Caterini, who will preside over the other Council appointed by the Synodus, concerning matters pertaining to ecclesiastical discipline. Then, the Sub-Secretary, as indicated by the President, announced the names of those who, having been found elected after the completed scrutiny, are to form the Council appointed by the Synodus concerning the affairs of the Regular Orders; and the names are as follows. APPOINTMENT FOR THE AFFAIRS OF THE REGULAR ORDERS: "After the scrutiny of the ballots, which were presented in the General Congregation held on Wednesday the twenty-eighth of this month, those who were found elected by the greater number of votes are as follows." REVEREND FATHERS: "1. Franciscus Fleix y Solans, Archbishop of Tarragona. 2. Andreas Raess, Bishop of Argentinensis. 3. Godofredus Saint-Marc, Archbishop of Rhedonensis. 4. Ferdinandus Blanco, Bishop of Abulensis. 5. Ioannes Derry, Bishop of Clonfertensis. 6. Iosephus Benedictus Dusmet, Archbishop of Cataniensis. 7. Felix Cantimorri, Bishop of Parmensis. 8. Iosephus Ignatius Checa, Archbishop of Quitensis. 9. Fridericus de Fürstenberg, Archbishop of Olomucensis. 10. Carolus Pooten, Archbishop of Antibarensis and Scodrensis. 11. Paulus Micaleff, Bishop of Typhernatensis. 12. Stephanus Vincentius Ryan, Bishop of Buftalensis. 13. Simon Spilotros, Bishop of Tricaricensis. 14. Alexander Angeloni, Archbishop of Urbinatensis. Acts, Volume V, page LIV.

[*Latin ed. p. 338*]

338 FROM ACTS 15. Ignatius Moraes Gardoso, Bishop of Pharannensis. 16. Franciscus de Leonrod, Bishop of Eystetensis. 17. Guillelmus Ioseph Clifford, Bishop of Cliftoniensis. 18. Thomas Michael Salzano, Bishop of Tanensis. 19. Iohannes Ioseph Faiet, Bishop of Brugensis. 20. Maria Ephrem Garrelon, Bishop of Nemesinus. 21. Aloisius Nazari di Calabiano, Archbishop of Mediolanensis. 22. Georgius Ebediesu Chajat, Chaldean Archbishop of Amidensis. 23. Gaspar Willi, Bishop of Antipatrensis. 24. Iohannes Thomas Ghilardi, Bishop of Montis Regalis. "From the Secretariat of the Vatican Council, December 31, 1869." IOSEPHUS E P. S. HIPPOLYTI, Secretary of the Council. After such denunciations, a manifestation of the opinions of those Fathers who had requested to

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speak followed, and only four spoke, namely, the Bishop of Savanensis, Augustinus Verot; the Bishop of Salutiarum, Laurentius Gastaldi; His Eminence, Cardinal Ioseph Trevisanto, Patriarch of Venetiarum; and the Armenian Patriarch of Ciliciae, Antonius Hassun. Then, almost at the first hour after midday, the Congregation was dismissed, and on January 4th, the Congregation was again convened. In the seventh Congregation, which was a continuation of the preceding ones, Mass was celebrated by the Archbishop of Westmonasteriensem, Henricum Manning, and then the President, Cardinal Antoninus De Luca, announced the death of the Bishop of Panamensis, Eduardi Vasquez, of the Order of the Preachers, in these words: "REVEREND FATHERS, We must inform you with great sorrow that the Reverend Bishop of Panamensis, Eduardi Vasquez, has passed away in this mortal life, after a long and troublesome infirmity, which he bore with the utmost patience, as an example. The proper funeral rites will be performed for him as soon as possible. In the meantime, let us commend him to the divine mercy, both through the holy sacrifice of the Mass and through other works of Christian charity."

[*Latin ed. p. 339*]

339. After these things, with the same President presiding, the Fathers spoke, whose names, as is reported, are as follows: The Archbishop of Sens, Victor Bernardou; the Bishop of Moulins, Peter de Dreux Brèzè, who read the scriptures in the name of the Bishop of Montauban in France, John Doney; the Prelate Boillès, formerly Bishop of Luçon; the Bishop of Corneto and Centumcellae, Francis Gandolfi; the Bishop of Paderborn, Conrad Martin; the Bishop of Saint-Brieuc and Tréguier, Augustine David; the Bishop of Casale Monferrato, Peter Ferre; the Bishop of Saint Gall, John Baptist Greit. Finally, the continuation of the Congregation was postponed to January eighth, and the Fathers were dismissed.

CONCERNING THE SECOND PUBLIC SESSION HELD ON JANUARY 6, 1870:

"Notification to be made by messengers, and a copy also delivered at home."

"On the sixth day of January, 1870, on Thursday, on the feast of the Epiphany of the Lord, at the ninth hour before noon, in the Patriarchal Basilica of Saint Peter in the Vatican, the session of the Holy Ecumenical Council will be held.

"The Most Reverend and Right Reverend Cardinals, wearing red robes with black shoes, will proceed to the aforementioned Basilica, where, after venerating the Most Holy Sacrament, they will put on garments of the color proper to their order and will seek seats in the conciliar hall.

"The Most Reverend Patriarchs, Primates, Archbishops, Bishops, and

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Abbots who have a place in the Council, after venerating the Most Holy Sacrament as above, will put on the sacred garments of the color due to them and will enter the aforementioned hall.

"Mass will be sung according to the usual rite by the Most Reverend and Right Reverend Cardinal Mattei, Bishop of Ostia and Velletri, in which, in obedience to the MOST HOLY LORD OUR GOD, no offering will be made, no sermon will be given after the Gospel, nor will the usual consultations take place.

"After Mass, the prescribed prayers will be recited, after which, by the SUPREME PONTIFF and by all the Fathers,..."

[*Latin ed. p. 340*]

340 EITHER from the acts, or from the law, or from a privilege, they offer their vote in the Council; a solemn profession of faith is emitted according to the prescribed formula by Pius IV, of blessed memory, in his Constitution which begins: "It has been decreed by us on the Kalends of November in the year 1564." "Therefore, let all and each of the Most Eminent and Most Reverend Cardinals, Most Reverend Patriarchs, Primates, Archbishops, Bishops, Abbots, and the supreme superiors of the congregations and regular orders, who, by Apostolic concession, have a place in the Vatican Council, be summoned. "Also, let the Vice-Chamberlain, the Prince of *Zvolen*, the Custodian of the Council, the Most Reverend Auditor and Treasurer, the Prefect of the Pontifical House, the Senator and Conservators of the City, the Master of the Sacred Hospital, five Protonotaries from among the participants, four Auditors of the Rota, two Clerks of the Apostolic Chamber, four Voters of the Signature, two Abbreviators from the Major Park, and the officials of the Council, be summoned. "By order of His Holiness the Pope." Aloysius Ferrari, Apostolic Protonotary, Prefect. NOTICE: "In the second public session of the Vatican Ecumenical Council, to be held on January 6th, on the feast of the Epiphany of the Lord, a solemn profession of faith will be emitted according to the following order. "The promoters of the holy Council, approaching the throne of the Pope, will stand so that the profession of faith may be emitted by all the Fathers, according to the formula prescribed by Pius IV, of blessed memory. "The Most Holy Father will pronounce the formula first. Then, one of the Fathers, having raised the formula from the stand, will read it aloud. "After the aforementioned formula has been recited, all the Fathers, maintaining the order of dignity and precedence, will approach one after another to the Pontifical throne, and, kneeling, having touched with their right hand the Holy Gospels of God, will ratify the aforementioned profession of faith with the words: 'I, N. N., promise, vow, and swear according to the aforementioned formula. May God help me, and may these holy Gospels of God

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assist me,' kissing the book."

[*Latin ed. p. 341*]

VATICAN COUNCIL 341: "The Easterns, however, will pronounce these words each in his own idiom." Aloysius Ferrari, Apostolic Protonotary, Chamberlain, Prefect. Therefore, the session was held according to such an announcement and notification. The Most Reverend Cardinal Constantinus Patrizi, who immediately succeeds the Cardinal Dean, solemnly celebrated Mass, as in the first session. For the Dean, Cardinal Mattei, is detained at home due to grave infirmities of old age. Regarding the order, the present session differs from the first session in these principal respects: the solemn supplication, with which the Fathers entered the Basilica and the Council hall, was not held; but rather, each, wearing a white cassock, immediately entered the Council hall, seeking their own seat and awaiting the Pope. The Pope followed, surrounded by his noble family, with a cross preceding him; the Cardinal Deacons Antonelli and Mertel attended him: he entered through the smaller door of the hall. The Mass was begun and celebrated in the same manner and with the same ceremonies as it is usually celebrated when it is publicly celebrated before the Pope: no prayer was recited, nor was obedience given. The aforementioned Cardinal Deacons, as well as the Cardinal Priest De Angelis, were present at the throne. After the Mass was celebrated, the conciliar proceedings began, according to the same manner in which the first session was held. Upon the altar, which is located far from the front of the Pope, the book of the Gospels was placed upon a small, most elegant throne. Meanwhile, the Pope was wearing different vestments, and recited the sublime prayer "Adsumus, Domine," and the other prayers as prescribed in the already given Order of Ceremonies, and Method, which we will give below, for those things which are customary to be done in the sessions. It is unnecessary here to say that the people, who were spread out from the larger doors of the hall, joined their voices with the voices of the Fathers in the litanies, and in the hymns "Veni Creator" and "Te Deum," and that they seemed to be of one mind and one soul. Cardinal Capalti read the Gospel, taken from chapter 18 of the book of Saint Matthew. In this second general session, no decree was published, because none was yet under consideration; nevertheless, the session was of great importance because of the singular profession of faith. For the Pope himself, first of all, before the synod, proclaimed that...

[*Latin ed. p. 342*]

342 With great solemnity, he performed what we do not read having happened in other ecumenical synods: this formula was made a profession of faith, which exhibited the Apostolic, Nicene, and Tridentine faith, and which, flowing from Christ the Lord, the author, is guarded, protected, and preserved as the most precious deposit within the Catholic Church, having

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reached our age without blemish through the vicissitudes of the centuries, to be strengthened with new defenses in the present time: on that day, this solemn profession of faith was made, on which day solemnities are celebrated in the Catholic Church concerning that light of faith, which led the nations to Christ born: that light, indeed, had diminished somewhat over the royal city, but so that it might shine more brightly (that city, having neglected itself, which thought itself to be the light, fearing the heavenly), and that the nations might be perpetually united with Christ born. Therefore, at the urging of the Promoters of the Council, the Pope arose before the most numerous assembly of Fathers, and the Fathers, following his example, began and continued the profession of faith with a resounding voice, which filled the entire hall of the Synodus with a distinct sound. Meanwhile, it seemed that the minds of all were being nourished with deep contemplation and a sweet feeling, as the faces of those present indicated. Some, we know, were representing to themselves Simon Peter, who, when questioned by Christ the Lord: "Who do you say that I am?" promptly answered: "You are the Christ, the Son of the living God"; others considered Simon Peter confirming his brothers; others considered the unity of faith, which, under various arranged and explained formulas, has remained unbroken in the successors of Peter; others considered the teacher of faith, who by his example showed with what shield, with what weapons, the world is conquered. O Rome, when, with the power of your ancients and the wisdom of your laws, you subjected peoples and nations to yourself, you did not understand by what hidden power you were moved, and by what you were led: indeed, the bravest peoples, against whom you made your attacks, knew that the Romans fought with divine help; but, by what means, indeed, were you led to victory, all were ignorant. The wisdom of your laws was evident to all peoples; but from where did that light of wisdom derive for you, for which reason you were chosen among the nations of the world, so that you might rule over almost all peoples, both with arms and with laws, you did not know. Therefore it happened that, after so many and such great victories, you, resting in the vanity of your feelings, became a teacher of error. You imposed a bond on the peoples, so that all might be united to you in the external name, and this, even the foolish ones of this...

[*Latin ed. p. 343*]

In the 343rd year since the Council of Vatican, ignorant of the ways of divine providence, they strive to imitate you, as if this were the true glory of nations; and they desire you, hoping to renew that which they admire in you when you were small. But it was something else entirely that was foreordained by Him who is rich in all things, namely, God, who directs the nations on earth, for in you, the authority of their laws, and that teaching of the faith, was to be established, which would unite all men with God, so

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that all men might be united with one another in true unity. Blessed is the people whose God is the Lord! Now lift up your eyes and look around: all these are gathered together, they have come to you, for whom the Author and Consummator of faith prayed most earnestly, that they might all be one, just as you, Father, are in me and I am in you, that they also may be one in us, and for this reason that the world might believe in the mission of the Son of God, that the world might believe, because you have sent me. You already see all these gathered in your embrace, bound by the bond of charity; but today you see the same, and even more, united by the bond of faith, under that leader who gloriously occupies the place of your former Caesars. You do not hear the clamor of soldiers, of cavalry, of weapons and shields as you once did, but rather the voice of shepherds of all peoples, a voice far stronger than weapons and shields, proclaiming, affirming, promising, and swearing by the one faith that conquers the world, whose teacher they declare themselves to be, forever united with you. But that is not enough; you will see even greater things: for your sons will come from afar, and your daughters will arise from the sides. Then you will see and be filled with joy, and your heart will rejoice and be glad when a multitude from the sea turns to you, and the strength of the nations comes to you. A flood of camels will cover you, the camels of Midian and Epha, and all from Sheba will come, bringing gold and incense, and proclaiming praises to the Lord. Therefore, the Pontiff, as I said before, rising from his throne, pronounced this creed of faith with a loud voice, and preceded all the Fathers: "I, Pius, Bishop of the Holy Catholic Church, with firm faith believe and profess all and each thing contained in the Creed of faith, which the Holy Roman Church uses, namely: I believe in one God, the Father Almighty, Creator of heaven and earth, and of all things visible and invisible."

[*Latin ed. p. 344*]

344 FROM THE ACTS: Concerning the only-begotten Son of God. And concerning Him who was born of the Father before all ages. God from God, light from light, true God from true God. Begotten, not made, one substance with the Father, through whom all things were made. Who, for our sake, men, and for our salvation, descended from the heavens. And was incarnate of the Holy Spirit, of the Virgin Mary, and became man. He was also crucified for us under Pontius Pilate, suffered, and was buried. And He rose again on the third day, according to the Scriptures. And He ascended into heaven, and sits at the right hand of the Father. And He will come again in glory to judge the living and the dead, and of His kingdom there will be no end. And in the Holy Spirit, the Lord and Giver of life, who proceeds from the Father and the Son. Who, together with the Father and the Son, is worshipped and glorified, who spoke through the prophets. And one holy, catholic, and apostolic Church. I acknowledge one Baptism for the remission of sins. And I await the resurrection of the

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dead. And the life of the age to come: Amen. I firmly accept and embrace all apostolic and ecclesiastical traditions, and the remaining observances and constitutions of the same Church. Also, I accept the sacred Scriptures, according to that sense which the Holy Mother Church has held and does hold, whose office it is to judge of the true sense and interpretation of the sacred Scriptures, and I will never receive or interpret them except according to the unanimous consent of the Fathers. I also profess that there are seven true and proper sacraments of the new law, instituted by Jesus Christ, our Lord, and for the salvation of the human race, although not all are necessary for each individual, namely Baptism, Confirmation, the Eucharist, Penance, Extreme Unction, Holy Orders, and Matrimony, and that these confer grace; and that Baptism, Confirmation, and Holy Orders cannot be repeated without sacrilege. I also receive and admit the rites of the Catholic Church, received and approved, in the solemn administration of all the aforementioned sacraments. I embrace and accept all and each of those things which concerning original sin and justification were defined and declared in the most holy Council of Trent. I also profess that in the Mass is offered to God a true, proper, and propitiatory sacrifice for the living and the dead, and that in the most holy Sacrament of the Eucharist is truly, really, and substantially the Body and Blood, together with the soul and divinity, of our Lord Jesus Christ, and that there takes place a conversion of the whole substance of bread into the Body, and of the whole substance of wine into the Blood, which conversion the Catholic Church...

[*Latin ed. p. 345*]

At the Vatican Council, 345 [bishops] declare concerning the transubstantiation: "I confess that, even under one species alone, the whole and entire Christ is received, and that it is a true sacrament. I steadfastly hold that there is a purgatory, and that the souls detained there are aided by the prayers of the faithful. Likewise, I believe that the Saints, reigning together with Christ, are to be venerated and invoked, and that they offer prayers to God for us, and that their relics are to be venerated. I firmly assert that images of Christ, the ever-Virgin Mary, and also of other Saints, are to be kept and retained, and that due honor and veneration are to be given to them. I also affirm that the power of indulgences was left by Christ in the Church, and that their use is most salutary for the Christian people. I acknowledge the Holy, Catholic, and Apostolic Roman Church as the mother and teacher of all churches (and I pledge and swear true obedience to the Roman Pontiff, the successor of the Blessed Apostle Peter, and the Vicar of Jesus Christ) (1). Furthermore, I unconditionally accept and profess all those things which have been handed down, defined, and declared by the sacred canons and the ecumenical councils, and especially by the most holy Council of Trent; and, together with all those things, I likewise condemn, reject, and anathematize all things contrary to them, and what-

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ever heresies have been condemned and rejected, and anathematized by the Church. This true Catholic faith, without which no one can be saved, which I now spontaneously profess and sincerely hold, I will, with God's help, constantly retain and confess in its entirety and without blemish until the very last breath of my life, and I will take care that it be held, taught, and preached by my subordinates, or by those whose care is entrusted to me in my office, as far as is in my power. I, Pius, Bishop of the Catholic Church, pledge, vow, and swear, may God help me in this, and may these holy Gospels of God be my guide."

Having recited this formula, and with the Fathers confident, he approached the seat of the Pontiff. The Secretary, carrying the Bishop of Fabriano, presented the formula of faith to the Pontiff, who gave it to another, who then went to the ambo and, raising it, pronounced the same formula in a loud and distinct voice. Upon its completion, all the Cardinals, then one after another the Patriarchs, and then the Primates, Archbishops, and other Fathers, (1) These words were spoken by the Pontiff, but the other Fathers did not leave off confirming their profession of faith.

[*Latin ed. p. 346*]

846 FROM THE PROCEEDINGS: Those who, first in pairs, then in groups of four, approaching the *solium*, with their knees bent before the Pontiff (while the Secretary and Under-Secretary of the Council noted the names of the Fathers on either side), placed their right hand on the book before the Pontiff, and pronounced these words, whether in Latin, or in Greek, or in Aramaic, or in Bulgarian, or in Chaldean, or in Syriac, clearly and distinctly: "I, N. N., promise, vow, and swear according to the prescribed formula. May God help me in this, and may these Holy Gospels of God." Nevertheless, this action lasted for nearly two hours, and when it was completed, the Pontiff rose and began to sing the hymn *Te Deum*, which, completed by the singers and the Fathers, brought about a solemn blessing, and thus the session was concluded. No day was announced for holding another session, because many Fathers were easily distracted by conversations, and it could not be foreseen when the decrees would be prepared. In the same session, however, a booklet was distributed to the Fathers, entitled *Methodus désignons*, by which the proceedings of the Council will be conducted in future sessions, and which reads as follows:

METHOD FOR CONDUCTING THE SESSIONS OF THE ECUMENICAL COUNCIL TO BE HELD IN THE BASILICA OF ST. PETER IN VATICANO.

"1. The Most Eminent Cardinals and the Reverend Fathers shall proceed to the Basilica of Vatican, and after venerating the Most Holy Sacrament, they shall put on the sacred vestments of the color red appropriate to each, and the miters, and shall immediately proceed to the hall, where, after bowing before the altar, they shall take their places as indicated by the

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Assignators.

2. The Most Eminent and Reverend Cardinal who is to celebrate the Mass shall put on the sacred vestments in the Gregorian chapel of the Blessed Virgin Mary, and shall await the arrival of the Supreme Pontiff.

3. The Most Eminent Cardinal Prior of the Presbyters shall put on a red cope, and shall sit in his place behind the Cardinals and Bishops."

[*Latin ed. p. 347*]

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4. The Most Eminent Cardinal Deacon, who will chant the Gospel during the synodal session, will prepare himself in the aforementioned chapel, wearing the amice, alb, cincture, stole, and dalmatic of red color; and, having put on the mitre, he will take his place among the other Most Eminent Cardinals.

5. The Apostolic Subdeacon will be vested in the amice, alb, cincture, and a tunic of the same red color; and he will stand near the altar in the designated place.

6. The Supreme Pontiff will descend to the Basilica, and after venerating the Most Holy Sacrament, he will proceed to the hall and will attend the Mass to be celebrated by the Most Eminent Cardinal.

7. The Most Eminent Cardinals and Reverend Fathers will attend the aforementioned Mass in their respective places.

8. The Supreme Pontiff will kiss the text of the Gospel, and the book will be presented by the more senior Most Eminent Cardinal, who will also, in due time, present to the Supreme Pontiff the instrument of peace.

9. After the Mass has been completed, the Cardinal who celebrated the Mass will depart, and he will lay aside the sacred vestments in the aforementioned chapel, and, having put on the garments appropriate to his order, he will return to the hall among the other Most Eminent Cardinals.

10. After the Mass has been completed, the Supreme Pontiff will be accompanied by two of the older Most Eminent Cardinal Deacons, and he will ascend to the eminent seat, in which he will sit.

11. The Clerks of the Chapel will remove the stall from the middle of the sanctuary.

12. Through the sacristy, above the altar, the vestments prepared for the Supreme Pontiff will be arranged in order.

13. The Reverend Father Sacristan will approach the altar to arrange the sacred vestments of the Pope.

14. Those who are to carry the aforementioned sacred vestments will proceed to Zvolen.

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15. The Supreme Pontiff, with the assistance of the Cardinal Deacons present, will remove the stole and mozzetta, and he will be vested by them in the amice, alb, cincture, stole, pluvial, formal vestment, and mitre.

16. The Clerks of the Chapel will place a throne above the altar for the deposition of the Book of the Holy Gospel.

17. The Secretary of the Council will descend from his place, and, having made a reverential bow to the Supreme Pontiff, he will approach the Creed. Then, with everyone rising, the same Bishop will make no reverence to anyone.

[*Latin ed. p. 348*]

348. Having detected the designated head, the Holy Gospel codex shall be carried to the altar, where it shall be placed upon a prepared throne.

18. Having placed the Holy Gospel codex upon the altar, the Episcopal Secretary shall take his place among the Officials.

19. A stall shall be prepared for the Clerics of the Chapel in the middle of the solarium.

20. The Cardinal Deacon assisting shall say aloud: "Pray."

21. The Supreme Pontiff, having removed his mitre, shall prostrate himself upon the stall; all the others shall bend their knees in their proper places.

22. Meanwhile, two Bishops shall be present with a book and a candle.

23. After a brief interval, only the Supreme Pontiff shall rise and, in a plain tone and aloud, shall read the prayer "Adsumus Domine," etc., at the end of which all shall respond "Amen."

24. The Cardinal Deacon assisting, being the first of all, shall rise and say aloud: "Arise."

25. All shall rise and stand.

26. The singers shall sing the antiphon "Exaudi nos, Domine," etc.

27. The Cardinal Deacon shall again say aloud: "Pray."

28. All shall again bend their knees and pray for a short time.

29. The Cardinal Deacon, being the first of all, shall rise and say aloud: "Arise."

30. All shall rise and stand, as before.

31. The Supreme Pontiff shall sing, in a plain tone, the prayer "Mentes nostras," etc.

32. Having completed the prayer, all shall again prostrate themselves, without their mitres, except the Supreme Pontiff, who shall wear a simple mitre.

33. Two singers, kneeling in the sanctuary, shall chant the litanies.

34. The Supreme Pontiff, when it is indicated, shall rise alone, and, hold-

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ing the Cross with his left hand in place of the pastoral staff, shall thrice bless the Synod, saying: "May this holy Synod," etc.

35. The Litanies shall be completed.

36. All shall rise and stand.

37. The Supreme Pontiff shall say: "Let us pray."

38. The Cardinal Deacon: "Let us bend our knees," and all shall bend their knees, except the Supreme Pontiff.

39. The Cardinal Deacon shall say: "Rise," and all shall rise.

40. The Supreme Pontiff shall recite, in a plain tone, the prayer "Da quaesumus," and upon its completion, he shall resume his mitre, return to his seat, and shall sit therein.

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41. The Cardinals and Fathers shall sit and shall wear their mitres.

42. The Cardinal Deacon shall chant the Gospel, and the Apostolic Subdeacon shall approach to give the credence and take the paten.

43. The same Cardinal Deacon shall receive the book of Gospels, which, according to the custom, he shall carry and place upon the altar.

44. He shall approach the *solium* and kiss the hand of the Supreme Pontiff.

45. The Acolytes of the Signature, bearing candles, and the Apostolic Subdeacon shall stand before the altar.

46. The Cardinal Priest attending shall approach the *solium*.

47. The Pope, with the assistance of the same Cardinal Priest, shall place incense in the thurible with a blessing.

48. The Cardinal Deacon, kneeling before the altar, shall recite the prayer "Munda cor meum," etc., and, having received the book from the altar, shall join the Subdeacon and the Acolytes.

49. The Cardinal Deacon, the Apostolic Subdeacon, the Acolytes, and the Thurifer shall approach the *solium* for the blessing.

50. Having received, as above, the blessing, the Gospel shall be chanted.

51. During the chanting of the Gospel, all shall rise with their heads uncovered, and also remove their caps.

52. After the Gospel has been chanted, the Supreme Pontiff shall kiss the book presented to him by the Subdeacon, and shall be incensed by the attending Cardinal Priest, who, after the incensing, shall return to the *solium*.

53. The Cardinal Deacon and the Apostolic Subdeacon shall lay down

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the paten and return to their places.

54. The Acolytes and the Thurifer shall lay down the candles and the thurible.

55. The stall shall be replaced by the Clerks of the Chapel in the middle of the *solium*.

56. The Supreme Pontiff, having removed his mitre, shall approach the stall.

57. Two Bishops with a book and a candle.

58. The Supreme Pontiff, from the book presented to him by the attending Cardinal Priest, shall begin the hymn "Veni, Creator Spiritus," and shall prostrate himself upon the stall.

59. The rest shall bend their knees in their places; and with their heads uncovered.

60. The singers shall follow with the hymn.

61. At the end of the first verse, the Supreme Pontiff shall rise and stand in his seat.

[*Latin ed. p. 350*]

350 FROM THE ACTS 62. The rest all rise and stand in their places. 63. The faldstool is removed from the center of the *solium*. 64. Two Bishops, with a book and a candle. 65. The Supreme Pontiff, after the hymn, will chant the verse and the prayer from the book, which will be held by the Cardinal Priest. 66. Two singers will chant. "Benedicamus Domino," and in response, "Deo gratias." Then, all the singers will depart from the hall and remain in the Gregorian chapel of the Blessed Virgin *Maria*. 67. The Supreme Pontiff will sit down and resume his mitre. 68. The rest all will sit down with their mitres. 69. By order of the Prefect of Ceremonies, those who do not have a place in the Council will be dismissed, namely, the Master of the Sacred Hospitium. The other Prelates who are not officials, with the exception of the Apostolic Subdeacon and the Dean of the Holy Rota. All the chamberlains of secret and honor, except for two of the number of participants, will serve the Supreme Pontiff. The chaplains, both secret and common. The camerlengo outside. The acolytes and clerks of the chapel. The doorkeepers with the red staff. The caudatarii. 70. Therefore, after those who cannot attend the subsequent proceedings have been dismissed, the door of the hall will be closed from the outside by the doorkeepers, and they will guard it. 71. At the main door of the conciliar hall and at the other smaller doors, the doorkeepers will watch from the outside, and they will guard them. 72. In the chapel of the Blessed Virgin and in the other chapel of St. Petronilla, with the inner doors closed, those who do not have a place in the Council will remain. 73. The Secretary Bishop, together with another Bishop, who will read the decrees, will approach the *solium*, and after first making a profound reverence before the steps of the same

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solium, they will approach the Supreme Pontiff, to whom they will kiss his right knee. 74. The Supreme Pontiff will hand over the decrees to be promulgated in the same session, either to the Secretary, or to the other Bishop, who will read the decrees. 75. The Secretary, or the other Bishop, will ascend the ambo, and with the consent of the Supreme Pontiff, will make a profound reverence towards him; then, with his head uncovered, he will read the title of the decrees, namely: "The Pius Bishop, servant of the servants of God, with the approval of the sacred Council, for the per-"

[*Latin ed. p. 351*]

The 351st session of the Vatican Council. "Then he will put on the mitre, sit down, and read the decrees to be approved in that session. 76. After the decrees have been read, standing with his head uncovered, he will ask the Cardinals and Fathers, in a set formula, whether the decrees just read are pleasing. 77. The Secretary, or another Bishop who read the decrees, will descend from the ambo and return to his place. 78. The scrutineers, accompanied by notaries, will approach the center of the presbytery and, after making a genuflection to the Supreme Pontiff, will approach the Cardinals and Fathers and receive their votes. 79. Accompanied by another of the masters of ceremonies, the two scrutineers, to whom notaries of the Council will be attached in such a way that two scrutineers will have one notary of the Council assigned to them, will proceed to collect the votes of the Fathers, distributed among the four main sections of the hall of the Council, so that three together (namely, two scrutineers and one notary of the Council) will approach the section of the hall assigned to them for this purpose, and there they will individually ask the Eminent Cardinals, as well as the Patriarchs, for their votes, according to the order of their seating; the votes of the Primates, Archbishops, Bishops, and other Fathers of the Council will also be requested individually, according to the order of their seating, while standing in the center of the hall of the Council; and the votes of each will be accurately recorded. 80. The Cardinals and Fathers will express their vote aloud, by the word "Placet" (It pleases) or "Non placet" (It does not please), while seated with their mitres. Abbots and others, to whom, by privilege, it is permitted to express their vote, will rise with their heads uncovered, and after making a genuflection towards the Supreme Pontiff, they will pronounce the word "Placet" or "Non placet." 81. When all the votes have been collected in one of the aforementioned sections of the hall, these two scrutineers, together with the notary who collected the votes in that section, will approach the table of the Secretary, which is placed in the center, and there the votes collected will be counted, and it will be recorded in the minutes whether the decree has pleased all those who gave their votes, or whether there are some for whom it is pleasing only with some modification or condition, or not at all. 82. The Secretary will be present to record, in writing, according to the formula

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previously prepared for each possible outcome, those things that result from the counting of all the votes, by the scrutineers.

[*Latin ed. p. 352*]

352 FROM THE ACTS 83. Then, the scrutineers, together with the Secretary, will approach the *solium* and present to the Supreme Pontiff the total number of votes duly recorded, so that, through his supreme authority, confirmation may be obtained and promulgation enacted. 84. The Supreme Pontiff will confirm the decrees aloud, pronouncing the prescribed solemn formula, namely: "The decrees just read have pleased the Fathers, with no one dissenting (or, if anyone should dissent, except for the total number); and We, with the sacred Council approving, decree, establish, and sanction them, just as they were read." 85. The Secretary, following the rite previously noted, will again approach the Supreme Pontiff and will receive from him the decree for the convocation of the future session. 86. The Secretary will ascend the ambo and, following the previously prescribed rite, will announce the future session; he will then descend from the ambo and return to his seat. 87. The Protonotaries will approach before the last step of the *solium* from the left side. 88. The Promoters will also approach the *solium* and, kneeling in the middle of the lowest step, will request the Protonotaries to prepare one or more instruments concerning all that has been done in this session. 89. The senior Protonotary will respond: "We trust in you, witnesses," indicating the Prefect of the Pontifical House and the Prefect of the Palace, who will be present for this act, seated near the right side of the *solium*. 90. The door of the conciliar hall will be opened, and those who have previously departed will take their assigned places. 91. Two Bishops will stand by with the book and the candle near the *solium*. 92. The Cardinal Priest assisting will again approach the *solium*. 93. The Supreme Pontiff, having removed his mitre, will rise and, from the book held by the assisting Cardinal Priest, will begin the hymn "Te Deum laudamus," which will be followed by the choir of singers, alternating with the clergy. 94. Near the end of the hymn, two acolytes of the Signature will approach before the steps of the *solium*, carrying candelabra. 95. Two Bishops will stand by with the book and the candle. 96. Upon the completion of the singing of the aforementioned hymn, the Supreme Pontiff will say "Dominus vobiscum" and will recite the prescribed prayer from the book offered by the Cardinal Priest.

[*Latin ed. p. 353*]

353 Of the VATICAN Council: 97. In the meantime, the Apostolic Subdeacon shall carry the Papal Cross before the steps of the throne. 98. After the completion of the prayer, the Supreme Pontiff will give the blessing to the people: "May the name of the Lord," etc. 99. The stall shall be replaced before the altar by the Clerics of the Chapel. 100. The First Cardinal, as

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Deacon, will place the mitre on the Supreme Pontiff, who will descend from the throne and pray briefly before the altar. 101. Then the Supreme Pontiff will rise from the stall, show reverence to the altar cross, bless the Fathers, and, as is customary, return with his usual retinue to the nearby Gregorian chapel of the B. M. V., where he will lay down the sacred vestments, and, having put on his mozzetta and stole again, he will return to his apartments. 102. The Most Eminent Cardinals, outside the hall, may, if they wish, lay down their sacred vestments. 103. The Reverend Fathers will depart from the hall and, in the prepared chapels of the Transfixion of the B. M. V. and of St. Sebastian, will lay down their sacred vestments, and, having put on their ordinary garments again, will depart." OF THE GENERAL CONGREGATIONS: The General Congregation was held on January 8th, at which, after the Mass of the Holy Spirit celebrated by the Most Reverend Archbishop Primates of Gnesen and Posen, Ledochowski, and after the customary prayers, the First President announced that the Pope, by a written decree dated January 4th, had appointed His Eminence Cardinal Bizzarri as President of the Council for matters pertaining to the regular orders. Then followed the speeches of the Fathers on the first draft, and four spoke, namely: Joseph Valerga, Patriarch of Jerusalem, who, because of his weak voice, gave another to read – John Baptist Landriot, Archbishop of Rheims – Victor Bechamps, Archbishop of Mechlin – Andrew Raess, Bishop of Strasbourg. Then the Congregation was adjourned, and was postponed to the tenth day, and at the same time two other drafts were distributed to the Fathers, which concern matters relating to ecclesiastical discipline. Acts, Volume V, page LV.

[*Latin ed. p. 354*]

354 FROM THE ACTS. On the tenth day of January, the Congregation was again held, and in its ninth session, at the ninth hour before noon, the Most Reverend Joseph Checa, Archbishop of Quito, celebrated Mass, and seven Fathers spoke, namely, Thomas Salzano, Bishop of Tanaro in the inferior province; Simon Spilotros, Bishop of Tricarico; William Meignan, Bishop of Châlons-sur-Marne; Stephen Ramadiè, Bishop of Perpignan-Elne; Emmanuel dei Valle, Bishop of Huánuco; George Chaiat, Archbishop of Amida of the Caldaeans; and Louis Haynald, Archbishop of Kollotschau and Backs; and Joseph Papp Szilaggi de Ulesfalva, Bishop of Magno-Varad of the Greek Rite of the Ruthenians. After these discourses of the Fathers, of whom we know that more than thirty spoke on this very schema, the schema was submitted by the Presidents of the Council to the Council for Matters of Faith. For, according to the Constitution *Multiplices*, which we have given to our readers on page 231, in Article VII, § 1, the following precautions are observed: "If, in the Congregation held, the schema presented exhibits either no difficulties, or only minor difficulties that can be easily resolved in the same session, then there will

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be no delay in establishing, after the discussions have been concluded, the formula of the decree or canon of the Council in question, after the votes of the Fathers have been taken. But if, concerning the aforementioned schema, such difficulties arise, such that, with opinions divided, no way is apparent in the same assembly to resolve them, then... the Cardinals, Presidents of the same General Congregation, will see to it that the schema in question, together with the objections raised, is submitted for examination to that special Deputation to which, according to the assigned subject matter, it pertains. What has been deliberated in this special Deputation will be reported in print to the Fathers, etc." Therefore, since various difficulties had arisen, the Presidents of the Council decreed that the proposed schema be submitted to the Council for Matters of Faith. As far as we know, the following occurred: all the discourses of the Fathers were reduced to the briefest summary, and, as if in annotations, the observations and opinions of the Fathers were added to the same schema, and this schema, augmented with annotations, was proposed to the Fathers; these Fathers, through some chosen from among them, revised the schema again, so that the observations which caused difficulty...

[*Latin ed. p. 355*]

The Third Session of the Vatican Council would not admit certain matters; immediately, they would be received, or otherwise, they would be considered in preparing a schema. For this reason, the aforementioned Council was convened in special Congregations (1). The schema, thus reformed and augmented with annotations, was presented to the Synod according to the Constitution *Multiplices*. In the tenth Congregation, which was held on January 14th, the Most Reverend Joachim Limberti, Archbishop of Florence, celebrated Mass; and afterwards, the Fathers inscribed on the sheets, which had already been distributed in the preceding Congregation, the names of those whom they wished to constitute a Council for matters pertaining to the Eastern rite, and it was also indicated that this Council should also address matters concerning apostolic missions. After the sheets were inscribed and deposited in the urn, the Fathers began to speak about schemas pertaining to discipline, and, as is reported, the following spoke: Cardinal Frederick Schwarzenberg, Archbishop of Prague; Cardinal James Mathieu, Archbishop of Besançon; Paul Ballerini, Patriarch of Alexandria; John Simor, Archbishop and Primate of Gran; and Benvenutus Monzón y Martins, Archbishop of Granada. Afterwards, other schemas of the same kind were also distributed. In the same General Congregation, the first President, Cardinal De Angelis, reminded everyone of the Pope's order, indicated in the Constitution *Multiplices*, concerning the need to maintain secrecy, both among the Fathers and among all those who serve the Synod. This warning was given especially because certain audacious newspapers were reporting on what was being said and done in the Council, although

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partly true and partly false; this arose from information perhaps transmitted by one or another, who, showing little regard for the Pope's secret, and completely ignorant of the dignity of the Apostolic See in conducting the affairs of the Church, had taken it upon themselves to report on conciliar matters.

(1) Special Congregations, or the Council for matters of faith, which had been appointed by the Synod, were convened on January 7th in the buildings of the Vatican, which are commonly called the Treasury buildings; and again on the 9th and 11th. On Sunday, the 23rd of the same month, a Council was convened in other Vatican buildings, appointed by the Holy Father, to receive the propositions that were to be presented by the Fathers, and various discussions were held there regarding the admission of certain propositions, and regarding the order in which they should be presented to the Synod.

[*Latin ed. p. 356*]

356 FROM the ACTS, those who fall under the category of "Secret" are those who, in this matter, place their wisdom in speaking and communicating with others. The document, which was distributed to each Father (and which we have seen to have been made public through Catholic periodicals, as well as another which we append below), has the following content: "NOTICE: Published by the Most Eminent Presidents of the General Congregations in the General Congregation on January 14, 1870. "In the Holy Council of Trent, on February 17, in the year 1562, the Cardinal Presidents gravely admonished the Fathers, lest they divulge those things which were proposed for examination, before they were presented in a public session, reciting through the Secretary Angelo Massarelli the following words: "Most Reverend Fathers! Your Lordships know how unworthy and how indecent it is that Decrees and other things which are proposed to the Fathers for examination, before they are confirmed and presented in a public session, should be divulged. Therefore, the Most Illustrious DD. Legates and Presidents admonish and also urge Your Lordships, for the honor and reputation of this Holy Council, and to avoid scandals which might arise, that Decrees and all other things which are proposed for examination, should not be divulged, nor should a copy of them be shown to anyone outside the body of the Council, nor transmitted to anyone outside the city; and that they strictly forbid that this be done even by their relatives. "Indeed, since, without great sorrow of our minds and just offense to all good men, this has recently occurred, of which the Presidents of the Council of Trent lamented in their time, we are compelled to reinstate that warning, and to impress it seriously upon all those who are listed in the Apostolic Letters, Multiplices inter n. III, namely, all and each of the Fathers, Officials of the Council, Theologians, experts in the Sacred Canons, and others who offer their services to the aforementioned Fathers

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or Officials in any way in the affairs of this Council, especially since, due to the unrestrained license of public periodicals, much greater scandals arise from the violation of secrecy, and this is found in the same Apostolic Letters."

[*Latin ed. p. 357*]

357. To no one is it permitted, without incurring the guilt of a grave fault, to transgress the precept of the Supreme Pontiff concerning the keeping of secrets, as has been thrice expressed by the Vatican Council. "From the Secretariat of the Vatican Council, January 14, 1870." IOSEPHUS E P. S. HIPPOLYTI, Secretary of the Council. In the same Congregation, another recommendation was made, following these words: "To the Most Eminent Presidents of the General Congregations, published in the General Congregation on January 14, 1870." "Heeding the desire expressed not once, but many times, by numerous Fathers, we warn and earnestly implore all those who wish to speak in the general congregation to use, as much as possible, the greatest brevity in presenting and explaining their observations, omitting those things which do not properly pertain to the matter, nor repeating in their entirety those things which perhaps have already been noted by other Fathers." "From the Secretariat of the Vatican Council, January 14, 1870." IOSEPHUS E P. S. HIPPOLYTI, Secretary of the Council. In the eleventh General Congregation, which was held on January 15, after Mass celebrated by Carolus Pooten, Archbishop of Antibarensem and Scodren, the Fathers began their speeches concerning the proposed schemes, which pertain to ecclesiastical discipline, and six Fathers spoke, namely, Ioannes Losanna, Bishop of Bugellensis; Iosephus Caixal y Estrade, Bishop of Urgellensis; Ioannes Devoucoux, Bishop of Ebroicensis; Ioachim Lluch, Bishop of Salamantinus and Civitatensis; Salvator Demartis, Bishop of Galtellinensis and Nornensis; and Ferdinandus Ramirez y Vasquez, Bishop of Pacensis.

[*Latin ed. p. 358*]

358 FROM THE PROCEEDINGS: In the Twelfth General Congregation, held on the nineteenth day, Aloysius Nazari de Cailabiana, the Archbishop of Milan, celebrated the Mass according to the Ambrosian rite; and afterwards, the names of those who, after a vote, had received the greatest number of votes to form the final Council, designated by the Synod, for matters pertaining to the Eastern Rite, to which Council the office of dealing with Apostolic Missions was also entrusted; and the document is as follows: APPOINTMENT FOR MATTERS PERTAINING TO THE EASTERN RITE, IN WHICH ALSO APOSTOLIC MISSIONS WILL BE ADDRESSED. "After the scrutiny of the ballots, which were presented in the General Congregation held on the sixth day of the week, the fourteenth day of this month, those who were found to have received the greatest number of votes were

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elected." REVEREND FATHERS: 1. Peter Bostani, Archbishop of Tyre and Sidon, of the Maronite Rite. 2. Vincent Spaccapietra, Archbishop of Smyrna. 3. Charles Lavigerie, Archbishop of Algiers. 4. Cyril Behnam Benni, Bishop of Mossul, of the Syriac Rite. 5. Ambrose Basil Abdo, Bishop of Mariamn, of the Greco-Melkite Rite. 6. Joseph Papp-Szilagyi, Bishop of Magno-Varad, of the Greco-Ruthenian Rite. 7. Aloysius Ciurcia, Archbishop of Irenopolis. 8. Aloysius Gabriel de la Place, Bishop of Hadrianople. 9. Stephen Louis Gharbonneaux, Bishop of Jass. 10. Thomas Grant, Bishop of Southwark. 11. Hilary Alcázar, Bishop of Paphos. 12. Daniel Mac-Gettigan, Bishop of Raphoe. 13. Joseph Pluym, Bishop of Nicopolis. 14. Melchior Nasarian, Archbishop of Mardin, of the Armenian Rite.

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15. Stephanus Melchisedech, Bishop of Erzerum, of the Armenian rite.

16. Augustinus Georgius Bar-Scinu, Bishop of Salmas, of the Chaldean rite.

17. Ioannes Lynch, Bishop of Toronto.

18. Ioannes Marango, Bishop of Thin and Micon.

19. Franciscus Ioannes Laouenan, Bishop of Flaviopolitan.

20. Antonius Carolus Gousseau, Bishop of Engoulême.

21. Ludovicus Goesbriand, Bishop of Burlington.

22. Iosephus Valerga, Patriarch of Jerusalem.

23. Iacobus Quinn, Bishop of Brisbane.

24. Carolus Poirier, Bishop of Ross.

"From the Secretariat of the Vatican Council, January 18, 1870."

"JOSEPHUS E P. S. HIPPOLYTE, Secretary. Council of Vatican.

Following this, the discourses of the Fathers continued, and six of them spoke; and it is said that they were Vincentius Spacca pietra, Archbishop of Smyrna; Georgius Darboy, Archbishop of Paris; Paulus Melchers, Archbishop of Cologne; Franciscus Gandolfi, Bishop of Centumcellae and Corneto; Livius Parlatore, Bishop of St. Mark and Bisignano; and the Prelate de Charbonnel, who was formerly Bishop of Toronto, now of Sozopolis, in part.

In the general congregation of the thirteenth day, held on January 21, the feast of St. Agnes, Virgin and Martyr, Iosephus Giorgia, Archbishop of Cyprus, celebrated the Holy Mass according to the Maronite rite; since it was difficult for the Fathers to understand the sacred actions because of the rites, which were very different from the Latin rite, the Master of Ceremonies, in the meantime, signified the same things to the Fathers in a loud voice; and thus, this celebration of the Mass lasted almost an hour.

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Then, another schema was distributed to the Fathers, which concerned a matter of dogma, and the Fathers eagerly continued their discourses on matters of discipline; and five of them spoke, namely: Guillelmus de Ke.it etc, Bishop of Moguntia; Constantinus Ponet, Bishop of Gerona; Antonius Fania, Bishop of Potentia and Marsico Nuovo; the Prelate Casangian, Archbishop of Antioch, of the Armenian rite; and Antonius Dupanloup, Bishop of Orleans.

In the fourteenth congregation, held on January 22, the Patriarch Leahy, Archbishop of Cashel, celebrated Mass, and then spoke Petrus Dreuxtìrèxé, Bishop of Monemvasia; and... ”

[*Latin ed. p. 360*]

360 FROM THE ACTS, the Reverend Monsignor Pace, Bishop of Amerinus, Father John Baptist Ormaechea, Bishop of Tulancingo; Monsignor Nicholas Darbert, Bishop of Petrocoricensis; Monsignor Joseph Moreyra, Bishop of Guamagna, or Ayacuquensis. Then another draft was distributed to the Fathers concerning matters of dogma, and it reportedly deals extensively with the Church. In the fifteenth session, held on January [date obscured], Mass was celebrated by Monsignor Joseph Sanfeliu, Archbishop of St. Francis, and then four Fathers spoke, namely: Monsignor Francis Casula, Bishop of Uxello and Terralba; Monsignor Joseph Strossmayer, Bishop of Bosnia and Syrmia; Monsignor Iesualdus Vitali, Bishop of Ferentino; Monsignor John Faiet, Bishop of Bruges. In the sixteenth session, held on the 25th [date obscured], Mass was celebrated by Monsignor Alexander Angeloni, Archbishop of Urbino, and then six Fathers spoke on the same matter pertaining to ecclesiastical discipline, and they were: Monsignor John Baptist Swerger, Bishop of Lecovicia; Monsignor Amabilis Hachât, Bishop of Basle; Monsignor Stephen Melchisedechian, Bishop of Erzerum (Garin) (Armenian); Monsignor Lawrence Gastaldi, Bishop of Salutaria; Cardinal Camillus di Pietro, Bishop of Albano Laziale; Monsignor Joseph Audu, Patriarch of Babylon (Chaldean). With these speeches, the series of Fathers who had requested to speak on the initial drafts concerning matters of discipline concluded, a series that began in the eleventh session. These drafts were then submitted to the Council appointed by the Synod for matters of discipline, according to the Apostolic Letter, *Multiplices inter*. Finally, the opportunity was given to speak on other drafts already distributed, which also pertain to discipline, and only one Father spoke in the session we are discussing, namely, Cardinal Louis de La Lastra, Archbishop of Hispalensis. From what has been explained thus far, our readers have before their eyes the complete method by which the Vatican Council was established and has proceeded thus far; and they have a continuous series of acts and accounts. For this weighty reason, we interrupt briefly the method of our ephemeris, which we will resume, and we will be more

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concise in reporting our notes drawn from other sources.

[*Latin ed. p. 361*]

The general congregations, therefore, continued according to the established order, and on January 27th, six Fathers spoke concerning the proposed schema, which, it is said, deals with the life and conduct of clerics; in this session, the Fathers were informed of the death of Francis Suarez Peredo, Bishop of Verae Crucis, and they offered prayers for his soul. On the 28th, four Fathers delivered speeches. On the 31st, certain excuses from some of the Fathers were published by the Council of Judges for Excuses and Controversies, having been examined and approved; these were for those who were unable to attend in Rome, either due to infirmity or old age, or due to the needs of their churches, both spiritual and temporal, and these number twenty-seven in all. Furthermore, the reasons for the absence of four Fathers were also published by the same Council, having already been examined, who had requested permission to return to their dioceses; we hope to provide a distinct list of the names of all these individuals when it is complete. Then, five Fathers spoke, and the death was announced of Bernard Mascarou-Laurence, Bishop of Tarbes, whose death was accompanied by notable circumstances. On February 3rd, the congregation continued, and in it, seven Fathers spoke; and Marian Puigllat y Amigo, Bishop of Illerdensis, who was in danger of death, was commended to the prayers of the Fathers, and he died during the following night. On February 4th, five others spoke. On the 7th, four Fathers continued their speeches. On the 8th, six others completed their contributions, and the discussion concerning the third schema, pertaining to discipline, was concluded; this was, according to Apostolic Letters, referred to the Council deputed for ecclesiastical discipline (1). On February 10th, a new congregation was held, and the Fathers began to speak concerning a new schema, which, it is said, deals with a small catechism. Many Fathers had already given their names to speak on this matter, and in this congregation, seven Fathers spoke. On February 14th, the congregation continued, and in it, a document was published by the Judges of Controversies, which is of the following tenor. (1) The Council deputed for ecclesiastical discipline was convened for the first time on February 9th in the Vatican buildings known as the Tribuli.

[*Latin ed. p. 362*]

"From the records, it is brought to the knowledge of the Most Reverend Fathers of the Council, that the Most Reverend Lords, the Archbishop of Bar, the Archbishop of Mechlin, and the Archbishop of Salerno, to whom a place among the Archbishops had been assigned, had presented their complaints to the Judges of Complaints and Controversies, requesting that a place among the Primates be assigned to them. The aforementioned Judges, performing their duty, and diligently examining the reasons presented by

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the same Most Reverend Lords, since it was evident from the documents presented that the aforementioned were called Primates, resolved the matter in such a way that they would remain in the same possession of the Primacy during the ecumenical Council of the Vatican, and that no right should be granted to others, nor should any right be diminished, in accordance with the Apostolic Letters of November 27, 1869, with the reservation of the right to examine the value of the title in a formal judgment." "From the Secretariat of the Vatican Council, February 12, 1870." JOSEPH, Bishop of St. Hippolytus, Secretary of the Council. Furthermore, the names of several other Fathers were published who had requested leave to depart due to urgent necessities of their dioceses, and their requests were recognized and approved by the same Council of Judges of Excuses. Five Fathers spoke, and finally, the death was announced of Basil Gil y Bueno, Bishop of Barbastro-Monzón and Marbasire. On the 15th, the Congregation continued, and seven others spoke on the same matter. On the 18th, a report was made regarding certain Fathers who were unable to attend the Congregations due to illness or old age, and seven Fathers continued their speeches. On February 21st, seven Fathers spoke on the same matter. On February 22nd, seven Fathers spoke, and with them, the discussion of the aforementioned matter concluded. A new matter concerning ecclesiastical discipline was distributed, and a Decree was published containing a new method by which the Synod would be administered.

[*Latin ed. p. 363*]

VATICAN COUNCIL 363. Our readers have thus far seen how much freedom has been granted to the Fathers, a freedom which perhaps was not given to others in other synods. In this new method, ample opportunity is also given for writing, so that the minds of the Fathers may be occupied, both in the synod and at home, in the study of conciliar matters. However, the greatest and most important labor will concern the individual opinions submitted by the Fathers to the Synods. But the matter is arranged so well that, while freedom is not denied to the Fathers, neither will the Synods be denied the power to restrain those speeches which they deem empty and superfluous. Therefore, in this second stage of affairs, the work will intensify. The decree which follows sets forth the tenor of the matter. DECREE. "By Apostolic Letters, published on November 27 of the preceding year, the beginning of which is 'Multiples inter,' the Supreme Pontiff established a general order to be observed in the celebration of the Vatican Council; and in these, among other things, he laid down certain rules by which the discussions to be held by the Fathers should be regulated. 'Indeed, the Most Holy Lord, desiring to more easily attain the purpose He has set before Him, and also considering the complaints which have been repeatedly presented by many of the Fathers of the Council, because the series of conciliar discussions is prolonged longer than is equitable; from His

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apostolic solicitude, He established certain specific rules for the discussions of the General Congregations, which, by promoting the General Order, and by preserving the integrity of that freedom of discussion which is due to the Bishops of the Catholic Church, would contribute more effectively and expeditiously to the examination, discussion, and deliberation of matters.' 'Therefore, after consulting with the Cardinals presiding over the General Congregations, and after also seeking the opinion of the Fathers regarding the reception and consideration of the proposals of the Bishops, the same Most Holy Lord commanded the following regulations to be observed: 1. After the Council Fathers have been given the schema, the Cardinal Presidents of the General Congregations shall designate a suitable time within which the Fathers themselves, who have noticed anything to be amended in the schema, must submit it in writing."

[*Latin ed. p. 364*]

364. Concerning the Acts [of the Council]: The following observations shall be prepared in this order: First, those which generally concern the schema, whether as a whole or in parts, as indicated by the Presidents, shall be noted in writing; then, those which refer to the individual parts of the schema, following the order of the schema itself. 3. Those Fathers who deem it necessary to offer observations, either in words or in paragraphs, concerning the proposed schema, shall submit a new formulation of words or paragraphs to replace the previous one in the schema. 4. The observations made by the Fathers of the Council in this manner, and duly signed, shall be delivered to the Secretary of the Council, and, through his efforts, transmitted to the respective Episcopal Deputations. 5. After such observations have been considered in the meeting of the Deputation to which they pertain, a revised schema, together with a summary report, shall be distributed to each Father, in which mention shall be made of the proposed observations. 6. After the schema, together with the aforementioned report, has been communicated to the Fathers of the Council, the Cardinal Presidents shall set a date for a General Congregation in which the discussion shall begin. 7. The discussion shall first take place generally concerning the schema as a whole, or in parts, as the Cardinal Presidents shall deem appropriate; and after that has been concluded, each individual part of the schema shall be discussed separately; the proposed observations in this discussion of individual parts shall always be replaced by the revised formulation of the schema, either by period or paragraph, and shall be presented in writing to the Presidents after the speech has been given. 8. Those who wish to speak concerning the revised schema, while taking care to inform the Presidents of their intention to speak, must also indicate whether they will speak generally about the entire schema, or specifically about its parts; and, to the extent that they intend to speak specifically, they must state which part of the schema they intend to address. 9. It shall be

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permissible for any of the Bishops from the respective Deputation, with the permission of the Presidents, to respond to the difficulties and observations of the speakers: provided, however, that they shall have the option either to speak immediately after the speaker's address, or to respond to several speakers at the same time who are discussing the same matter, and to complete this either on the same day or on another day. 10. The speeches of the speakers shall be within the limits of the subject matter proposed, at Fismes.

[*Latin ed. p. 365*]

365. The Fathers of the Vatican Council shall be restrained. If any of the Fathers should stray beyond the bounds of the session, the Presidents shall be responsible for calling him back to the matter under discussion.

11. If the series of discussions, having sufficiently explored the matter at hand, should continue for too long, the Cardinal Presidents, upon a written request presented by at least ten Fathers, may consult the General Congregation as to whether the discussion should be continued further; and, after a vote taken in writing, they shall put an end to the discussion, if it should seem best to the majority of the Fathers present.

12. After the discussion on a particular section of the schema has concluded, before proceeding to another, the Cardinal Presidents shall inquire of the General Congregation, first regarding the amendments proposed in that very discussion, and then regarding the entire text of the section under examination.

13. The votes on the amendments, and on the text of each section, shall be taken by the Fathers of the Council in such a manner that the Presidents shall invite, in turn, first those who assent to the amendment or the text, and then those who dissent; and, after the votes have been counted, that which has pleased the majority of the Fathers shall be decided.

14. When votes have been taken in this manner on all sections of the schema, the Cardinal Presidents shall ask the Fathers for their opinions on the examined schema. These votes shall be expressed orally by the words "placet" or "non placet"; but those who believe that some condition should be added, must give their vote in writing.

"Given in Rome on the 20th of February in the year 1870,"

Card. D E ANGELIS, President

Card. D E LUCA, President

ANDREAS Card. BIZZARRI, President

ALOISIUS Card. BILIO, President

HANNIBAL Card. CAPALTI, President

PHILIPPUS ANTONINUS

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Josephus, Bishop of Sancti Hippolyti, Secretary.

[*Latin ed. p. 366*]

FROM THE HOLY CONGREGATION OF THE COUNCIL OF TRENT, REGARDING THE DECLARATION OF NULLITY OF MARRIAGE, dated June 2nd and December 18th, 1869. Summary of the case. In the place called B., in the diocese of N., in Italy, in the year 1863, Aloysius, a young man, uneducated and a farmer, began to have affections for Anne, a girl of the same place and condition. Although this affection lasted for almost forty-five days, it went so far as to lead the lovers to physical intimacy. After the betrothal had begun, announcements had been made three times in the church, announcing the marriage, when Aloysius learned that Anne, whom he had always considered to be virtuous, had been pregnant for more than five months, by the work of another man. The young man immediately changed his mind and abandoned the intention of entering into marriage. However, on June 18th of the same year, in the afternoon, he was unexpectedly seized by two soldiers, of those who in Italy are called national guardsmen, and taken to the house of a certain Michael, also a centurion of the same military unit. Present there were the Procurator of the Police, a Captain with two of his soldiers, who are called Carabinieri in the Italian language, and who are responsible for civic security. And it is said that, when Aloysius, questioned by the Captain, refused to marry Anne, and replied that he did not want to, because he knew that she was already pregnant; then he was struck with blows by the young man and whipped, and was taken to the military station of the National Guard, where he was again beaten with blows, and all were ordered to carry out the punishment in his military station, where he was detained until night. It is said that all this happened to Aloysius because he did not want to marry a woman whom he had already betrothed and with whom he had been intimate. Subsequently, having been forcibly taken by military force, he was brought to the house of Anne.

[*Latin ed. p. 367*]

NULLITY OF MARRIAGE 367. At that time, the Centurion of the national militia, the Decurion himself, the local Syndic, the Notary, and others were already assembled. The Parish Priest also arrived, claiming he was delayed by the necessity of attending to a certain sick person; however, the truth was that he did so because he knew that a marriage was being celebrated under duress, and he did not object, except that he himself was also restrained by fear, or only after he was assured that all force in the matter of the marriage must be removed. What then happened, he recounted in a written statement presented to the Most Holy Father: "When questioned by the Syndic as to whether he would accept Anne into marriage, he hesitated, raising his shoulders as a sign of his troubled mind and perplexity due to

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fear; but when he noticed the Police Procurator approaching him with a raised cane, he affirms that he, against his will, gave a positive answer to the Syndic, and that, as they say, with a civil act, they all departed together to the church, at a very late hour." And so, accompanied by those men and soldiers who have been mentioned, who also entered the church and wished to attend the nuptial rites, the Parish Priest then asked Aloysius whether he was willing to join Anne in marriage; to which, as he asserts, he replied in the affirmative, out of fear of further pressure. He was then not allowed to return to his home, as he had been, but was taken by the soldiers to Anne's home, where, as he says, exhausted by fatigue, he lay down separately on the floor. The following day, or two days later, the couple were taken to another house assigned by Anne's father, and for about two months they remained there, never lacking in arguments and disagreements. When, however, Anne gave birth to a child at the end of the second month after the beginning of the marriage, Aloysius fled, hid himself for several days, and then returned to his father's house, and he no longer wished to unite with the woman; although the Bishop, upon his return from exile, made every effort to reconcile him with Anne. Indeed, in the year 1867, Aloysius petitioned the episcopal curia to declare the marriage with Anne null and void, due to the violence and fear with which it had begun. Therefore, the Bishop, with a defender of the marriage bond appointed, ordered that the proceedings be carried out through his Vicar, according to the Constitution of Benedict XIV. Both parties were heard under oath, with five witnesses, and seven others, both men and women. After the proceedings were concluded on December 3, 1867, Aloysius petitioned the same curia to expedite the resolution of the case, requesting a preliminary judgment.

[*Latin ed. p. 368*]

•368 Concerning the NULLITY of the marriage, the matter was referred to the Holy Congregation for investigation. With the consent of the woman, the Bishop sent the records of the proceedings to the Holy Congregation on June 5, 1868, requesting that the Most Holy Father, "if there are any defects in form, that they be corrected in the records (regarding those matters which are not customary in this small diocese), and that this primary matter be defined by the Congregation as soon as possible, because, since the spouses, utterly deprived of all human help, cannot appeal to the metropolitan court for a second judgment, especially since that seat is vacant, everything would be prolonged for a long time." However, on August 30 of the same year, the Reverend Prelate, Secretary of the Holy Congregation, responded to the Bishop, stating that it was necessary for him to pronounce the judgment in the first instance, and then for it to be considered by the Holy Congregation. Therefore, after hearing the arguments presented by the Defender of the Bond, the Bishop

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rendered a judgment of nullity on December 9, which he sent to the Holy Congregation, and after a report on the facts, the Most Holy Father, in an audience on January 11 of the following year, 1869, graciously approved that the case be presented economically before the Holy Congregation, with the opinion of a Theologian and a Canonist, and with the observations of the Defender of the Bond. Furthermore, in an audience on March 15, the Most Holy Father deigned to correct any defects in the proceedings. A summary of the discussion. THE OPINION OF THE CANONIST. Both the Theologian and the Canonist, after a detailed examination of the facts, came to the opinion that the marriage was null. We will only give a summary of the opinion that the Canonist wrote. Here, since the matter was more of fact than of law, from the beginning of his statement, he noted that, with respect to Aloysius, the plaintiff, and the five witnesses, who either participated in the action or knew of it by hearsay, and even the seventh person, the following facts were sufficiently established: 1° that Aloysius had, before the marriage, expressed a will contrary to the marriage; 2° that he had been seized in the afternoon; 3° that he had been severely beaten by the Deacon; 4° that he had been bound with ropes and held in custody; 5° that he had been dragged and carried from one place to another by soldiers; 6° that, with the same soldiers present, he was first taken to the house of Anne, and then to the church; 7° that those very people who had inflicted violence and fear on Aloysius were present both at Anne's house and in the church; 8° that, after the marriage had been celebrated in this manner, Aloysius was not left free, but o...

[*Latin ed. p. 369*]

NULLITY OF MARRIAGE 369: The case of Anne is brought before us: 9° It has never been lacking in quarrels and disagreements, leading up to separation, between the spouses. Having these points in mind, the Canonist sought to demonstrate individually that in this case, certain factors had intervened with such force as to vitiate the consent from the root, rendering the marriage invalid: 1° and that, through subsequent cohabitation, neither the fear had been dispelled nor the marriage validated. And concerning the first point, he cited the well-known Decretal of Alexander III in chapter 14 concerning Betrothals, which reads as follows: "Where there is no place for consent when fear or coercion intervenes, it is necessary that, where the assent of each is required, the matter of coercion be repelled. For marriage is contracted solely by consent, and where it is questioned, it must enjoy full security, which must be investigated, lest, through fear, one say that which pleases him, when he hates it, and follow the consequences that usually result from marriages entered into against one's will." He observed that Theologians and Canonists generally reduce the conditions under which fear invalidates a marriage to these: 1° that it falls upon a constant man; 2° that it is external; 3° that it is unjust; 4° that it is directly imposed to extort consent.

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Furthermore, the Canonist described what it means for fear to fall upon a constant man, citing Sánchez, book 5, question 1, on Marriage, where the author wrote: "These conditions are required for fear to fall upon a constant man: 1° that the fear be grave; 2° that the estimation of the 'evil' be strong, and that the one fearing does not lightly or superficially believe that he will suffer it; 3° that the one instilling the fear be capable of carrying out the threats; 4° that the one fearing cannot 'avert' the evils feared, by seeking help, consulting a superior, etc." He then sought to demonstrate that all of these conditions were present in the present case, citing the testimonies of witnesses, and, with regard to the first condition proposed by Sánchez, he concluded that the trepidation of the mind, due to the imminent or future danger, which constitutes the fear, and its degree, are left to the judgment of the judge, considering the particular circumstances and the individuals involved, 1.3 ff. In this case, it is a matter of a young, rural man, unexpectedly seized, bound with ropes, threatened with beatings, held in prison, surrounded by armed men who held public authority, harassed with threats and beatings, and transported tumultuously from one place to another, at night, a time when fears are usually increased, and taken from the bride's house to the church. o o o Acts, volume V, page L V.

[*Latin ed. p. 370*]

370 OF THE NULLITY OF MARRIAGE. All these things appeared to be such as ought to have disturbed not only the mind of a simple young man, but also that of any most steadfast and courageous man. Moreover, since the other conditions enumerated by Sanchesius were perfectly consistent with the fear experienced by Aloysius, it was evident that, as the fear subsided in this steadfast man, it had been an external imposition. Regarding the second condition of the Canonists, that the fear must be unjust, it was clear from the fact that it had been imposed not by a competent authority, not for a known cause, not for a just cause: for soldiers, a Syndic, and a Procurator of the Police, who had no jurisdiction in matrimonial causes, had used force and threats; and the cause was not just, since Aloysius, knowing of the woman's pregnancy, was legally able to withdraw from the marriage he had entered into with her. Furthermore, regarding the last condition, which requires that the fear must be directly imposed to extort consent, it was openly evident that Aloysius had already firmly resolved to repudiate the marriage with Anne, and therefore, her persecutors, using threats and blows, had sought to dissuade him from this purpose and to compel him to consent, which was demonstrated by appropriate testimonies. With regard to the other point of contention, namely, that the fear had not been removed by subsequent cohabitation and intercourse, and that the marriage had not been validated, it should be noted that, in order to validate those things which have been improperly performed, it is necessary to bring the matter to that state in which it could have validly be-

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gun; as Alexander III said in the alleged Decretal concerning a girl who had been abducted, at which time abduction, for the purpose of invalidating the marriage, was not distinguished from an impediment of force and fear: and the Pope added: "She must fully enjoy security, and her mind must be investigated." Therefore, we order that the girl, concerning whose marriage the question is raised, be honorably placed in a house where she need fear nothing. This had not only not been done with Aloysius, but the contrary had occurred, and this was also demonstrated by appropriate testimonies. The Canonist added further points to this matter, rather for the instruction of the matter, since in these cases it is certain that, in places where the law of Trent prevails, a marriage contracted by force and fear, when the impediment is public, is not validated unless the form is repeated, which...

[*Latin ed. p. 371*]

NULLITATIS MATRIMONII 371. Et ipse Canonista demonstrat, de quo, videtis, quae adduximus in Vol. II, Appendice I, pagina 52 et sequentes. ANIMADVERSIONES DEFENSORIS MATRIMONII. Defensor matrimonii, ex officio, inter cetera quae scripsit, observavit, quod apertissime constabat, et sponsalia fuisse inita, denunciationes factas, matrimonium fuisse coram Parocho initum, quibus stantibus, non esse pluris quam par sit aestimandum rumorem de vi aut metu insusso: qui ceteroquin non omnino iniustus censendus esset, cum et Aloysius non solum sponsalia cum Anne inivisset sed et etiam eam cognovisset; ideoque promissis stare, factaque suo per matrimonium emendare deberet, quod contra fas egisset. Neque plurimi esse faciendam Aloisii renuentiam Annam uxorem ducendi postquam notum ei factum est, eam non virginem iamdiu fuisse: quum improbabile esset, quod Aloysius haec non ante dignovisset: ideoque iactatam renuentiam, qua diceretur, obfirmato animo Annam postea repudiasse, firmo fundamento carere: eo vel magis, quod dum Aloysius a civili auctoritate deprehensus causam sciret, cur detineretur, non una vice dixerit, se velle Annam uxorem ducere. Hisce aliisque copiose deductis, propositum est resolvendum Dubium: « An constet de nullitate matrimonii in casu ». RESOLUTIO. — S. Congregatio Concilii, causa cognita die 26 Iunii 1869 respondere censuit: Affirmative. Hac edita Resolutione, novam audientiam imploravit vinculi matrimonialis Defensor iuxta praescriptum Constitutionis Benedictinae, *Bei miseratione* (quam recolere possunt Lectores nostri in Vol. IV pagina 346); atque nova Vota sunt exquisita tum ab altero Theologo tum ab altero Canonista, qui pariter in nullitatem matrimonii satis convenerunt, quibus propositis cum novis animadversionibus defensoris Matrimonii ex officio in Congregatione habita die 18 Decembris 1869, S. Congregatio, causa iterum discussa, respondit: In decisis. Ex QUIBUS COLLIGES: I. Matrimonii substantiam

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in libero consensu consistere.

[*Latin ed. p. 372*]

372. OF THE NULLITY OF MARRIAGE II. Therefore, a marriage contracted in a hostile manner is null by law and by its very nature, even if the form is observed. III. It does not seem to matter much whether the force of arms was brought to celebrate the marriage for a just or unjust cause: for the consent of the mind can scarcely be presumed to have been the result of such imposed force (1). I-V. In the present case, a just cause for compelling the man to marry was lacking, since the man was not bound to keep the faith given to the woman, whom he considered a virgin, nor did he consider her a virgin, but rather pregnant. V. Nor was the coercion just, if it was neither lawful nor made by a competent authority. (1) I believe that the marriage would also remain null, even if Aloysius had been legitimately obligated to take Anne as his wife by hypothesis, and the military force had been employed at the order of an ecclesiastical authority, even the highest, to compel him to enter into the marriage; for it would always be the case that, due to external violence to which it could not withstand, a physical and direct force was applied to induce him to utter the words of the contract. However, it would be necessary to say otherwise, if, after being subjected to punishments, or even if he were thrown into prison to satisfy the obligation, he nevertheless sought to celebrate the marriage that he was required to celebrate.

[*Latin ed. p. 373*]

REDUCTION OF BURDENS. June 26, 1869. Summary. Joseph, a priest of the town of N., by his will, dated 1863, established a choral chaplaincy: he bequeathed, that is to say, thirty-one ounces annually, which the chaplain to be chosen should receive; and these revenues, with their burdens, are divided as follows: thirty-six ounces for the salary for celebrating the daily Mass in the church of B. in the same town, by the aforementioned chaplain; three ounces for the expenses necessary for celebrating; and twelve ounces for daily chanting of the Divine Office in the choir with the other Canons of the collegiate church of the same town. Furthermore, the testator wished that, with regard to the celebration of Mass, his chaplain should be subject to the chaplain of said church of B., in which the Mass was to be celebrated; and with regard to the recitation of the Divine Office, he should be subject to the Archpriest of the collegiate church. In the event that his chaplain voluntarily neglected these obligations, he stipulated that for each Mass omitted, he should be fined five tari, and for each omission of the Office, four tari. After the death of the testator, according to the method also prescribed by the testator, John, a subdeacon, was elected as chaplain, who was related to the testator by blood. However, considering the obligations imposed by the testator to be excessively burdensome, and also consider-

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ing the fines, which he would have to pay for voluntary omissions, to be excessively severe, he petitioned the Most Holy Father, requesting: 1° that, through a benevolent interpretation of the will of the deceased testator, he might enjoy a period of three months of vacation from the choir each year, as do the other Canons of said collegiate church; 2° that if, at any time outside of the vacation period, he should voluntarily be absent from the choir, or should not celebrate the assigned Mass, he should lose only one tar for each omission, and not four for the Office and five for the Mass. These requests having been received, the matter was brought before the Bishop for information and opinion, and after hearing the Chapter, the Archpriest, and the chaplain.

[*Latin ed. p. 374*]

374. REGARDING THE ALLEVIATION OF BURDENS, etc. In all cases, with some benevolent interpretation or for the sake of some reduction of the penalty, all have agreed. OBSERVATIONS CONCERNING THE CHAPLAIN. Among other things, it was noted that, according to the office for the Chaplain in the diocese in question, the customary stipend for Mass consisted of three tari; and, upon calculation, only one tari remained for the Chaplain each day for his service in the choir. Conversely, the penalty for voluntary omissions exceeded the emolument to such an extent that, if the Chaplain neglected to attend the choir on several occasions, and did not fulfill the daily celebration of Mass, he would easily lose the emolument for many days; which, however, is contrary to canonical equity, since the Council of *Tridentinum* itself did not impose the loss of all fruits upon negligent Canons except after a second year of absence and negligence, chapter 12, session 24, concerning Reforms. Regarding vacations from the choir, reasons should be sought from the very will of the testator, which should be supported by arguments; for, since the testator intended to bind the Chaplain to the divine office along with the other Canons, it seems that he also imposed an obligation that should not exceed the obligation of the Canons of said collegiate church; moreover, in that collegiate church, the Canons enjoy three months of vacation; therefore, it seems that the Chaplain should also enjoy these vacations. OBSERVATIONS AGAINST THE PRAYERS. Conversely, regarding the prayers, it was noted that the wills of testators must be sacredly observed, as both law proclaims; now, it is not obscurely apparent in the present matter that the testator joined the daily Mass and the choral recitation of the divine office together, so that these two should be performed daily. No reason, except for a serious cause, can be found to suggest that the Chaplain should be somewhat relieved of these burdens, since he freely subjected himself to these burdens; nor are the revenues to be considered so meager, if they are considered in another way, that is, not separately, but jointly as a single choral chaplaincy endowment. With these and other observations, the proposed prayers,

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after deliberation by the Holy Congregation of the Council on June 26, 1869, decided that: The Orator should enjoy vacations from the choir as the Canons enjoy; in all other respects, the law of the foundation must be observed.

[*Latin ed. p. 375*]

REDUCTION OF BURDENS 375 From WHAT IS GATHERED: I. The laws of a foundation are to be observed, and the Holy See should not alter them in any way without serious reasons. II. However, the alteration of laws should not be confused with the interpretation of those same laws. III. In the present matter, the Holy Congregation has interpreted the will of the testator concerning the removal from the choir, but has not altered his will (1). IV. This interpretation has had a real basis in the very meaning of the testator's will; since, by adding the daily choir of the Chaplain with the Canons, the testator should be considered to have wished to bind him to the same choral law, without openly contradicting it. (1) From this, it is understood that the Holy Congregation has interpreted only the will of the testator, and that no act of alteration of his will has been carried out, since the Holy Congregation does not have the authority to alter the laws of foundations by a mere verbal modification, whereas, if it had been the intention to do so, the necessary clause would have been...

[*Latin ed. p. 376*]

On the Feast of the Nativity of Saint John the Baptist, June 26, 1869. Summary of the case. These petitions follow those Decrees of the Sacred Congregation which we explained in Volume III, pages 468 and following, which the reader may recall in order to better understand the matter. John, a canon of the cathedral church of N., although he had for a long time urgently requested the grant of the jubilation, was, after a hearing held in the Congregation on May 25, 1867, rejected with a negative decree. The case concerned a canon who, for many years, had not served in the choir, because he had been engaged in other praiseworthy duties, either parochial or of preaching, with the permission or mandate of the Bishop; however, he had not obtained the grant of jubilation from the Apostolic See, and this, it was said, had occurred not through fault, but through ignorance. Considering that the orator believed that this response was unfavorable to him, because a large number of errors were also attributed to him in the books, he endeavored diligently for two years to perform the service of the choir continuously and laudably through others. After two years had elapsed, he repeated his petitions, since more than four years and two months had passed since the forty years of choral service. During these years, he testified that he had certainly made up for the absences from the choir that he had previously had. To these petitions, he added other reasons of compassion. The Bishop, having been asked to report to the Chapter

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on this matter, replied: "The Chapter... believes that the aforementioned canon deserves to receive the requested grant of jubilation at the present time. Indeed, after the denial of the grace in question, he rendered most laudable service to the choir, by which it should be considered that he has made up for the omissions calculated during the course of forty years of choral service. Furthermore, his advanced age is also a factor, as well as some infirmities of health, together with afflictions and sorrows due to family hardships and domestic calamities, especially due to the death of his most beloved brother. Finally, the same canon, from his youth until the entire past year of 1868, commendably devoted himself to the care of souls, and to the preaching of the Word of God in the city and diocese of N., and in other places."

[*Latin ed. p. 377*]

377. "Concerning the aforementioned Canon, I also humbly opine that it is worthy of the Apostolic Indult of Jubilation, which is humbly requested." *RESPONSUM*. After these petitions were presented to the Sacred Congregation of the Council on June 26, 1869, a *Rescript* was issued: "Regarding the Indult of Jubilation presented: but considering the orator's precarious health, a dispensation is granted for three years for the days and hours [of the jubilation]."

FROM WHICH THE FOLLOWING ARE GLEANED:

I. The Indult of Jubilation (which is granted as a reward for forty years of service to the church choir) is not to be granted if the time spent chanting has been devoted to other works of ministry, even if they are laudable.

II. For this reward is not a remuneration for any labors whatsoever, but only for choral service; and if this service ceases, the reason for this remuneration also ceases, especially if this cessation occurs undeservedly, that is, without Apostolic permission, which would excuse the individual from the choral office.

[*Latin ed. p. 378*]

Regarding the service of the choir: On April 17th and December 18th, 1869. Summary of prayers. The chapter of the collegiate church of N. in the Kingdom of Naples, in the year 1853, presented a humble petition to the Sacred Congregation of Councils, requesting that the canons be permitted to participate in the choir alternately; and furthermore, they requested permission to celebrate the conventual Mass without singing on those days when they would otherwise be obligated to sing other Masses due to special foundations, beyond those prescribed by the rubrics. Upon being asked, the Archbishop of that diocese responded: He considered the alternating choral service, as mentioned in the prayers, to be beneficial for

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the spiritual good of the church and the people; for in this way, one part of the chapter, which consisted of twenty canons and six mansionaries, could dedicate itself to other churches and pious and ecclesiastical works, since outside the chapter, there was no clergy who could adequately serve the spiritual needs of nearly twelve thousand souls. However, he considered that the alternating method should be limited to weekdays only, except for Sundays, feast days of the first and second class, as well as the feasts of the patrons and titular saints of each church. As for the singing of the conventual Mass, he was of the opinion that nothing should be changed; and if more Masses were to be sung with music, entrance into the choir could be permitted before the usual hour. On March 28th, 1857, the Sacred Congregation of Councils responded to these prayers as follows: Regarding the request for a reduction in the service of the choir, in accordance with the opinion of the Archbishop, except during the seasons of Advent and Lent, permission was granted, with the understanding that it would be communicated to the Most Holy. As for the dispensation from singing the conventual Mass, it was considered. The response was reported to the Most Holy Father, and the Pope granted the request, but he also wished to include the day of commemoration of all the deceased. Having received such a favor, the capitulars, nevertheless, renewed their prayers in recent years, requesting that the obligation to attend the choir on days of the first and second class be transferred to days of double, as they say, or simple feast.

[*Latin ed. p. 379*]

SERVICES OF THE CHOIR. The services which had been abolished, and in place of the feasts of the Patronage of St. Joseph, the titular church, and the dedication of St. Michael the Archangel, Protector, on which days, according to the preceding decree, all were obliged to assemble, were to be replaced by other days; a list of which they presented. But since they had not explained the matter clearly enough, nor had they given sufficient reason why such substitutions were necessary, after prayers presented in the Congregation on April 17, 1867, the Sacred Congregation responded: "Let fuller information be obtained and investigated." The Pro-Vicar General of that diocese, writing on behalf of the Archbishop regarding the proceedings of this decree, indicated that the requests of the Chapter were in accordance with the reduction of feast days which the Supreme Pontiffs had enacted in the Kingdom of Naples. For, after the feast days had been reduced and suppressed, while the faithful were exempt from the obligation of resting from servile works, all ecclesiastical obligations concerning the sacred functions remained. The Archbishop commended these requests. OBSERVATIONS FROM THE OFFICE. For a fuller understanding of the matter requested, the following observations are made from official sources. Before the pontificate of Benedict XIV in the Kingdom of Naples,

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there were many feast days besides Sundays and the more solemn ones. The Archbishops and Bishops of that Kingdom, perceiving that the large number of feast days caused great inconvenience to the faithful, hindering them from secular business and servile works, humbly presented petitions to Benedict XIV for the reduction of feast days. This Pontiff graciously granted this request through letters in the form of a Brief, dated December 12, 1748. It was decreed that, while all Sundays, as well as the feasts of the Ascension, Corpus Christi, and the Nativity of the Lord, the Purification, the Annunciation, the Assumption, the Nativity and Conception of the Blessed Virgin Mary Immaculate, the feast day of the holy Apostles Peter and Paul, the feast of all the Saints, and the feast day of any principal patron of cities or places, on which days the faithful were not only obliged to hear Mass, but also to abstain from servile works, in the remaining feasts, whether by this Apostolic See, or by synodal constitutions of any diocese, or by any other decree, it was entirely proper for each person, without any scruple of conscience, to attend to sacred matters, family affairs, and their own servile works.

[*Latin ed. p. 380*]

380 SERVICES OF THE CHOIR. From that time forward, those days which were formerly designated as days of simple obligation, in which only the obligation of hearing Mass was dispensed, were called days of a single precept, while the others were considered days of a double precept. But as the years passed, and misery increased in those regions due to public calamities, King Ferdinand I of both Sicilies humbly petitioned Pope Pius VII for a reduction of the number of feast days. The Pope, heeding these supplications, issued, through a brief entitled "Paternae charitatis," on April 10, 1818, the following decree: "Let the following feasts be observed throughout the year, in addition to all Sundays, namely, the Feast of the Circumcision of Our Lord Jesus Christ, the Feast of the Epiphany of the Lord, the Purification of the Blessed Virgin, the Feast of St. Joseph, the Feast of the Ascension of the Lord, the Feast of St. John the Baptist, the Feasts of the Holy Apostles Peter and Paul, the Feast of the Assumption of the Blessed Virgin Mary into Heaven, and the Nativity of Our Lord Jesus Christ. For the city of Naples alone, the Feasts of St. Januarius and St. Anthony of Padua shall be observed, and for the city of Palermo, the Feast of St. Rosalia. The feasts of the principal patrons of individual cities, towns, and places; to which is added the precept of abstaining from servile labor, shall be transferred, along with the respective celebrations of the offices and Masses, to the nearest Sunday, and if prevented, to the next following Sunday. Therefore, on all the aforementioned feast days, the faithful must, according to the ancient institution of the Holy Catholic Church, attend the sacred services and abstain entirely from servile labor..." This constitution, besides the feasts indicated, since it makes no mention of the others, was

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considered to have been abrogated with regard to both precepts. However, nothing was changed by it concerning Masses, Offices, and the obligations of the choir, or the application of Mass for the people; for the Pope added: "But since, while we provide for the needs of the consciences of the people and those who earn their bread through the sweat of their brow, we do not intend to diminish the veneration of the Saints and the salutary penance of the faithful, therefore, we decree that the Offices and Masses of the Saints shall be observed, both on the aforementioned abrogated feasts and on their vigils, and celebrated as before in any church."

RESCRIPT. After further petitions were presented to the Sacred Congregation of the Council on December 18, 1869, the Sacred Congregation responded as follows: "For the sake of expediency, and in accordance with the request, for seven years, except for the feast days of the first class, the decree is hereby confirmed."

[*Latin ed. p. 381*]

FROM THE SERVICES OF THE CHOIR, WE GATHER THE FOLLOWING:

I. It is the intention of the Holy See, when limiting the number of festive days for the convenience of the people, that nothing new be understood concerning the sacred functions and the obligations of the clergy.

II. Therefore, those who were bound to serve in the choir on festive days before the reduction of the number of festive days, are equally bound after the reduction.

III. Nor is a dispensation from such an obligation easily granted by the Holy See.

IV. Although a canonical grace for alternating attendance in the choir is sometimes granted, it is usually excepted, besides Sundays, Advent, and Lent, even the festive days of the first and second class, even though, with regard to the obligations of the people, they may perhaps be considered extinguished.

V. Finally, we gather that a petition made not clearly but confusedly does not merit the grace; and that if such a grace is granted for some external and general reason, it will at least be restricted by limits of time.

[*Latin ed. p. 382*]

FROM THE HOLY CONGREGATION OF BISHOPS AND REGULAR CANONS CONCERNING THE SALE AND PURCHASE. Dated September 18, 1868; March 5, and April 30, 1869. Summary of the Case. A pious woman, on July 19, 1833, established the Church of N. as her universal heir. Within the inheritance was included a building, of which a portion was bequeathed to her two sisters, with the condition that the heir, or the Chapter

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of the Church of N., would pay all taxes and all expenses of repair that would be necessary for that portion of the building. However, it happened that one of the legatees, a sister, entered the Monastery of St. Giles and, having made solemn vows, became a nun; therefore, the Monastery, having taken possession of that portion of the building, acquired ownership of half of the bequeathed portion; and that same half portion was given to the other legatee sister through a lease agreement, and the remaining undivided portion remained as a legacy. However, since the Monastery was experiencing inconveniences that often arise from co-ownership, it decided to sell the undivided portion of which it had acquired ownership; and the Canons of the Church of N., knowing this, sought to acquire that portion. Therefore, negotiations were held through appointed representatives regarding this matter, and an agreement was reached for a price of 2500 scudi, to be paid after obtaining and securing Apostolic Approval. The representative of the aforementioned Monastery undertook to prepare prayers to obtain Apostolic Approval, which prayers he submitted to the Chapter, so that it would undertake the task of obtaining the Approval. The method of payment of the agreed-upon price was to be as follows: the Church of N. was to pay 1500 scudi at the very moment of the contract, and that sum was to be deposited in the Monte di Pietà until it was legitimately invested; and the remaining 1000 scudi were to be paid in five annual installments.

[*Latin ed. p. 383*]

SALE AND PURCHASE 383 for each hundred, from the aforementioned parish, were to be paid annually to the monastery for the establishment of an endowment, so that the fund, being considered as part of the building, would be the very part of the building that was being sold. While these matters were pending, a certain Anthony arose and initiated a lawsuit, first against the Monastery of St. Giles, and then against the heir of the church, N. However, while the lawsuit was ongoing at St. Rome, the aforementioned negotiations remained suspended, and were to be concluded through a stipulation in a contract after the outcome of the lawsuit. In the meantime, since the church of N. had, as it was asserted, deposited the sum of 1500 scudi with the Monte di Pietà, an agreement was made between both pious institutions, namely that this sum would be withdrawn from the deposit by the Canons and invested in government bonds, the interest of which would be received by the Canons until the contract could be perfected; upon the perfection of the contract, the monastery would, in place of the 1500 scudi, receive the same bonds, whatever value they might have, whether greater or lesser. While Anthony's lawsuit, which I mentioned, continued, this agreement was put into effect. However, while the lawsuit with Anthony was still ongoing, the Monastery of St. Giles affixed public notices on July 11, 1870, for the sale of that part of the building about which negotiations had been held with the church of N., and found one bidder,

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namely Anthony himself, who promised 2800 scudi for the acquisition of that part of the building; that is, a price greater by 300 scudi than that which the church of N. had promised. Finding this contract advantageous to itself, the monastery requested Apostolic approval and also the authority to invest the price in government bonds. When the Chapter of the church of N. learned of this, it appealed to the Sacred Congregation of Bishops and Regular Canons, simultaneously imploring that the agreement made between its church and the monastery be maintained, reserving the right to request Apostolic approval when the instrument was stipulated. In the meantime, the Canons were concerned about a part of the house, which the monastery, considering it to be part of the legacy, had exposed for sale; regarding which matter, the Canons had also initiated a lawsuit in the tribunals in the same year, 1870, in order to reclaim what they considered to be theirs. After submitting their requests to the Ordinary for information and a vote, it was determined that the part of the building that belonged to the monastery should be valued by experts appointed in office at 2028 scudi, so that both offers, that of the Chapter of the church of N. and that of Anthony, were much greater than

[*Latin ed. p. 384*]

384 OF PURCHASE AND SALE: The value of the part of the building to be sold: And the Ordinary concluded that he considered the contract between the Chapter and the Monastery to be valid, since it seemed to benefit both parties. Having thus warned the parties, he proceeded to examine their rights in a full Congregation. A summary of the arguments. THE RIGHTS OF THE MONASTERY. The advocate for the Monastery argued as follows: That the matters which had transpired between the two pious institutions were nothing more than negotiations, which of themselves were not sufficient to create an obligation; that if greater force were to be attributed to these negotiations, he maintained that the Procurator of the Monastery, who had since passed away, had not had the authority to conclude the contract, as was necessary by custom; and he presented evidence to show that this authority was not only lacking, but had also been denied to him to whom it properly belonged. But even setting aside this point, he observed that consent to the alienation of Church property acquires no validity until it is approved by the Holy See; and that this approval had never been requested; and therefore, no obligation could have arisen. Moreover, he argued that even if, hypothetically, the Apostolic approval had been requested, the right of the Monastery to withdraw from the agreement could not be denied, based on the practice of the Holy Congregation, which only allows such a withdrawal if a formal instrument had been stipulated. Therefore, having received a more advantageous offer, the Monastery could have withdrawn from the agreement by the Congregation; all the more so, because Anthony himself had offered to submit to the twentieth and sixth ar-

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ticles, which are equivalent to the privileges of adhesion and restitution in integrum, as are applicable to minors, when their contracts are concerned; and therefore, if the Chapter wished to acquire that part of the building, it was within its power to invoke the twentieth and sixth articles, and if Anthony equaled the offer of the Chapter, it would have that part for itself. THE RIGHTS OF THE CHURCH N. In contrast, the Chapter argued that a contract of purchase and sale had been concluded, since there had been a full agreement on the price and the object to be alienated, which constitutes the essence of a contract of purchase and sale; and that this obligation remained in force through...

[*Latin ed. p. 385*]

385. Regarding SALES and PURCHASES, a suspensive clause is introduced, but with the reservation of Apostolic approval: this reservation, in itself, already implies a suspensive condition, by virtue of which, no one, without the consent of the other party, may withdraw, as Cardinal De Luca states in *De Fendis*, discourse 66, paragraphs 4 and 5. Therefore, the Monastery could not withdraw from the agreement, especially since an agreement had also been reached to invest a sum of 1500 scudi, the investment of which would be for the benefit or detriment of the seller.

OBSERVATIONS FROM OFFICE. For both parties involved, certain other observations are added by official decree; namely, it was considered that the contract, although not yet secured by the protective confirmation of the Holy See, nevertheless remains valid in its own right, due to the reservation of Apostolic approval; regarding this matter, Ventriglia writes in *Practices of the Church*, volume 1, note 1, paragraph 3, number 12: "The aforementioned limits; in order for a contract of alien property to be valid, the consent of the Apostolic See must be obtained, when no possession has been transferred, because alienation is said to be granted for a time suitable, if it pleases the Pope, and a disposition made at a suitable time, or made at an unsuitable time and granted at a suitable time, proceed in the same manner..." "Hence, we see daily in practice, instruments of concession of ecclesiastical property stipulated before the Apostolic approval, with the clause 'however, with the aforementioned approval reserved, and in no other way or manner, and with the property retained by the Church.' " Also, Fulgin, *De Contractionibus Emphyteutic*, question 16, paragraph 1 and following. It is indeed true, according to common opinion, that the ecclesiastical entity contracting enjoys the privilege of withdrawing from the consent given, until Apostolic sanction intervenes. But in the present case, it does not appear that the Monastery can make use of this privilege against the Chapter, since it itself enjoys the same privilege; and the saying holds: "He who is privileged against another who is equally privileged, cannot use his privilege against him," as is argued from the first passage of *Officium de minoribus*, 25 years of age, and from

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the last passage of *Gemma*, concerning pledges. If, even, the privilege of withdrawing from the agreement with the Chapter were to belong to the Monastery, in the absence of Apostolic approval, it must nevertheless be said that the Monastery is bound by a natural obligation, as others teach, Navarras, *Commentary on Alienations of the Church*, number 17; Riccius, *Practices, Resolutions*, page 1, register 7, number 4; Engel, *Title on Ecclesiastical Matters, Not Alienations*, number 19; Reiffenst., in book 3, decrees, title 13, number 53; Schmalzgrueb, *Ecclesiastical Law*, volume 3, Acts, volume V, part V, 25.

[*Latin ed. p. 386*]

386 ON SALES AND PURCHASES, p. 1, title 13, § 113: Therefore, it does not comport with good faith that one party, under the pretext of a privilege of the external forum, should be excused from an obligation undertaken, while the other party remains bound. Finally, in any case, it must be considered that, when it is permitted for one party to withdraw from an initial agreement, the other party has the right to seek compensation for damages resulting from the unfulfilled promise, as is taught by Cardinal Petra in the commentary on the Constitution of Paul II, no. 45, and by the Sacred Roman Rota in the case of Emerix the Younger, December 1260, no. 1 and 2, where it is written: "The foundation of the Lords was that the Fathers 'accepted the mandate to obtain Apostolic approval for the celebration of the contract, whether explicitly or at least implicitly; for they indeed promised to create a tax, which could not be created without Apostolic approval; and thus, since they did not fulfill the mandate itself, they are bound to pay the fruits in lieu of damages and interest to the text...' And in these precise terms, the mandate to obtain Apostolic approval, not having been fulfilled, was confirmed by the Rota in decision 291, no. 17, before Bichio, and in decision 372, no. 5, paragraph 14, recently. Notwithstanding that they were not in default by reason of an interpellation, because this is not required in damages arising from a contract."

OBSERVATIONS FROM THE OFFICE FOR THE MONASTERY. Regarding the Monastery, it was noted that negotiations had indeed taken place concerning a sale, which were closely related to a contract, but that the contract itself had not been perfected. Although the prayers prepared by the Procurator of the Monastery to obtain Apostolic approval had been presented to the Chapter, in which it was stated that the parties had concluded a contract; nevertheless, these prayers were concluded with a request to the Holy See for appropriate faculties to proceed with the sale and purchase. It is well known that: "Many things are discussed, which are later not completed." Indeed, a sale and purchase, as a contract whose substance consists solely in consent, does not require a written document; however, in the present case, it should have been perfected by a public instrument; on this matter, Justinian wrote in the Institutes, title on sales and purchases,

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and in law 1. 17 C. de fide instrum.: "Contracts of sales, or exchanges, or donations, which do not need to be notified, and also the giving of deposits, or any other cause, which, however, are to be made in writing, and also transactions, which are to be included in an instrument."

[*Latin ed. p. 387*]

EMPTIONIS VENDITIONIS 387 « We deem that validity is conferred upon transactions only when instruments are received into the world, confirmed by the subscriptions of the parties, and, if they are written in a table, also completed by the same, and finally, when they are perfected by the parties, so that no one may claim any right prior to this having occurred, whether from a written document, even if it contains the letters of one party or both, or from the world itself, which has not yet been completed or perfected, from the same contract or transaction; therefore, it is not permissible in such sales to say that a price established is necessarily imposed upon the seller, or that the contract of sale is perfected, or, that which is of interest to the buyer, it is to be paid to him. »

Doubt: « Whether and in what manner the requested Apostolic Beneplacitum should be granted in favor of (Anthony), or rather, whether alienation should be ordered in favor of the Chapter of the Church of N. in this case. »

RESPONSE. The Holy Congregation of Bishops and Regulars, having knowledge of the cause on September 18, 1868, judged that it should respond: "The matter is to be delayed and presented again after the outcome of the cause in the Sacred Rota."

With this published Rescript, on November 16, 1868, the Procurator of the Monastery presented a document to the Holy Congregation, in which Anthony amply acknowledged the acceptance of the offer.

The cause being presented again, the Holy Congregation, on March 5, 1869, with the Most Reverend Cardinal Berardi presiding, responded: "The matter is to be delayed and presented to the Most Reverend Presiding Judge, according to the intention: but the intention of the Holy Congregation was to hear the Chapter, whether it would increase the price to 2800 scudi, while maintaining the same condition regarding the Monastery through the very act of the sale, after the dispute of 1867."

Finally, when the Chapter prepared itself to present the proposed increase, the cause being presented again on April 30, 1869, the Holy Congregation responded: "Considering the particular circumstances occurring in this case, and considering the agreement reached between the Chapter and the Monastery of St. Giles, according to the intention expressed by the Holy Congregation on March 5, 1869, to the Most Reverend Presiding Judge, negatively regarding the first part, affirmatively regarding the second, according to said agreement."

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FROM WHICH IT MAY BE GATHERED: I. Private agreements concerning the alienation of ecclesiastical property, for the part of the Church which seeks to alienate, do not have force, before the Apostolic Beneplacitum is obtained.

[*Latin ed. p. 388*]

388. OF SALES AND PURCHASES. I. Whether the transaction be one that has been entered into by mutual agreement, or whether it has been concluded by mutual consent (1), until the reserved approval [Beneplacitum] is granted, the Church cannot, by virtue of the preceding regulations or contracts, be compelled to fulfill the contract. II. This applies whether the Church contracts with a civil person, or with another Church. III. The opinion of those ancient authors, who teach that a contract concluded with the condition of obtaining the Apostolic approval is valid, has not been seen to be accepted in practice. IV. Indeed, even after the form was introduced by Benedict XIV concerning the alienation of property belonging to the Treasury to ecclesiastical properties, the Apostolic approval, in order to favor the better offer, still requires the completion of the twentieth and sixth [stages], during which the adjudication of the property remains conditional and is made to the first, better offerer (2). V. In the present matter, given the various circumstances involved, and guided by equity, the Holy Congregation has judged that the alienation should be made in favor of the Chapter, omitting the form prescribed by Benedict XIV. (1) If the contract were not only concluded by mutual consent, but also by the mandate of execution through the delivery of the thing or possession, in addition to the nullity of the act, the contracting parties would, by this very act, incur the censure of excommunication, even if they had done so under the condition of obtaining the Apostolic approval: for they would be acting contrary to the form that extravagantly prohibits alienations under this penalty. (2) Whoever wishes to inquire further about this matter, according to the current practice of the Holy Congregations, should consult the work of the esteemed Aloysius Trombetta, "Praxeos Regulae, etc.," which we have often praised. Also, compare the case presented in Volume II, pages 418 and following.

[*Latin ed. p. 389*]

FROM THE HOLY CONGREGATION OF THE SACRED SUPREME INQUISITION: Concerning the authenticity of this Decree, it is fully established with us; although it is not from the authentic source, which rarely publishes its Decrees due to its very nature: it was first published in the Dublin periodical entitled "The Irish Ecclesiastical Record." DECREE: On Thursday, January 12, 1870. "Since some have doubted whether the society of Fenians is considered to be among the societies condemned in the Pontifical Constitutions, the Most Holy Pope, Our Lord Pius IX, with the most

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diligent prior consent of the Most Reverend Cardinals, against the heretical perversity in the entire Christian Republic, in order that the hearts of the faithful, especially the simple, may not be perverted with a clear distinction of the soul, adhering to Decrees previously issued by the Sacred Congregation of the Universal Inquisition in similar matters, especially the Decree of Thursday, July 5, 1865 (1), decreed and declared that the American or Irish society of Fenians is included among the societies prohibited and condemned in the Constitutions of the Supreme Pontiffs, and especially in the most recent publication of the same Holiness, on the fourth day before the Ides of October, 1869: Beginning with "Apostolicae Sedis," in which, under number 4, those are declared subject to the sentence of excommunication reserved to the Roman Pontiff, "who give their names to the Masonic sect or the Carbonari sect or to other sects of the same kind which plot, openly or secretly, against the Church or legitimate authorities; nor those who grant any favor whatsoever to such sects; nor those who do not denounce their hidden leaders and chiefs, until they have denounced them." And it was commanded that this should be answered to any bishop who requests it." Place for the Seal. For the Most Reverend Angelo Argenti, Secretary of the Roman and Universal Inquisition. James Vogagini, Substitute. (1) The Decree indicated here is found in Volume I, page 290, to which various notes are added.

[*Latin ed. p. 390*]

FROM THE HOLY CONGREGATION OF THE INDEX: The following decree was published before the publication of the Constitution: Of the Apostolic See. DECREE. — On Thursday, the 26th of November, 1869. The Holy Congregation of the Most Eminent and Reverend Cardinals of the Holy Roman Church, appointed by OUR MOST HOLY POPE PIUS IX and the Holy Apostolic See, for the examination of books of false doctrine, and for their condemnation, prohibition, expurgation, and permission throughout the Christian Republic, having met in the Vatican Apostolic Palace, on the 26th of November, 1869, condemned and condemns, prohibits, and prohibits, or orders that the following works be referred to the Index of Prohibited Books:

* *Storia critica della Superstizione*, by Luigi Stefano ni, 2nd Edition. Milan, 1869.

* *Der Papst und das Concil*, by Janus; that is, *Papa et Concilium*, by the Author Janus. Leipzig, 1869. In whatever language.

* *Das Recht der eigenen Ueberzeugung*, by I. Frohschammer; that is, *Jus propriae persuasionis*, by the Author L. Frohschammer. Leipzig, Fues's Verlag (R. Reisland), 1869.

* *La Piété et la Vie intérieure: Jésus vivant en nous*. — A pamphlet translated into Italian by a Lombard priest, and published by the printers of the Archbishopric of Milan, 1867.

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Decree of the Holy Office, on Thursday, the 30th of June, 1869. — The author commendably submitted and the work was condemned. Therefore, no one of any rank or condition may, in any place, and in any language, henceforth publish, read, or retain the aforementioned works, but must deliver them to the Ordinary of the place, or to the Inquisitors of heretical depravity, under the penalties indicated in the Index of Prohibited Books. These things, to OUR MOST HOLY POPE PIUS IX, having been reported by the undersigned Secret Congregation, HIS HOLINESS approved the decree and ordered it to be promulgated. In witness whereof, etc. Given in Rome, on the 30th of November, 1869.

ANTONINUS Cardinal DE LUCA, Prefect.

F. ANGELUS VINCENTIUS MODENA, of the Order of Preachers, Secretary of the Holy Congregation.

(Seal)

On the 2nd of December, 1869, the aforementioned decree was affixed and published at Santa Maria sopra Minerva, at the Basilica of the Prince of the Apostles, at the doors of the Holy Office, at the Curia Innocentiana, and in other customary places in the city, by me, Aloisium Serafini, Apostolic Cursist, and by Philippus Ossani, Magister Cursist.

[*Latin ed. p. 391*]

FROM THE HOLY CONGREGATION FOR THE RITES OF BEATIFICATION AND CANONIZATION, CONCERNING THE VENERABLE SERVANT OF GOD, JOHN JUVENAL ANCHINA, A DISCIPLE OF SAINT PHILIP NERI, AND LATER BISHOP OF SALUZZO, REGARDING THE DOUBT: Whether it is established that he possessed the Theological Virtues of Faith, Hope, and Charity, in God and towards his neighbor, as well as the Cardinal Virtues of Prudence, Justice, Fortitude, and Temperance, and their associated virtues, in a heroic degree, in every circumstance and in effect, concerning that which is being considered? DECREE. "From that noble Cedar of Lebanon, which had reached the highest summit of sanctity, namely, the Blessed Philip Neri, Patron and Apostle of our beloved City, a branch sprouted, a distinguished man, the Venerable John Juvenal Ancina. He was born in Fossà, in the Subalpine region, on the fourteenth day before the Kalends of November, in the year 1545. He was raised by pious parents, who were eager to cultivate in him, from his youth, a singular devotion to virtue. He had scarcely passed his adolescence when he was sent to Montpesat in France, to devote himself to the study of literature in that renowned academy of the arts. However, when he saw that the teachers there were infected by heresy, he was recalled to his homeland, where he endeavored to learn and subsequently taught with great skill, the faculties of Philosophy and Medicine at the Academy of Monreale. Meanwhile, walking in the path commanded by God, and filled with the fear of the final judgment, he resolved to renounce

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the world and its desires. Soon after, he came to the City, where, guided by divine counsel, he frequently visited Saint Philip Neri and his Oratory. Admitted into the same Congregation and ordained to the priesthood, from whom he had drawn such fervent inspiration, he worked abundantly for the good of souls in Rome and Naples.

[*Latin ed. p. 392*]

392. A DECREE was issued. Henceforth, all marveled at the most illustrious man's erudition, his knowledge of various matters, the gravity of his words and conduct, his quickness and urbanity; qualities which he combined with such modesty, piety, charity, and contempt for himself, that he presented a perfect image of all virtues. When raised to the sacred office of Bishop, his virtue began to shine more brightly, like a lamp burning and shining, placed above the candelabrum, which illuminates all who are in the house. Like an excellent and benevolent shepherd, he called his sheep individually to the pastures of verdure, and with hands full of the salt of wisdom, he enticed them, nay, drew them after him. Finally, for the sake of defending justice, he approached death, fortified by the sacraments, and desiring to have his wounds exposed upon the earth in memory of Christ, he breathed his last on the eve of the Kalends of September in the year 1604. But the fame of his virtues, which the most holy man enjoyed greatly during his life, did not cease in the tomb, but, on the contrary, spread more and more widely everywhere. Therefore, Foundations were established in Salutiis, and elsewhere, by Ordinary authority. These were later followed by four other Foundations in Rome, Naples, Salutiis, and Augsburg, instituted by Apostolic authority. These were subsequently approved after many years by the Sacred Congregation of Rites. After various vicissitudes, to which this noble Cause was subjected, the Congregation of Sacred Rites, preparatory to the examination of the virtues of the Venerable Juvenal Ancinae, held its session in the houses of Cardinal Ottoboni, on the thirteenth day before the Kalends of July in the year 1716. With the passage of time, a Preparatory Assembly was gathered in the Pontifical buildings at the Vatican, on the fifth day before the Nones of October in the year 1747. Afterwards, this Cause remained silent until our time, because God had ordained that the Venerable prelates of the entire Catholic Church, gathered in the Ecumenical Council of Vatican, by the grace of the Holy Spirit, would joyfully receive this new ornament of the Pontifical Order, and, as if seated among them, would contemplate the common cause of the Church and Society. Therefore, in the year 1855, with the authority granted by the Most Holy Pope Pius IX, it was decided to resume it and to hold another Preparatory Assembly with the same observations already presented in the previous Assemblies; such an Assembly was therefore convened in the Vatican Palace, on the sixteenth day before the Kalends

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of October in the year 1856. Finally, the General Assemblies obtained...

[*Latin ed. p. 393*]

393. DECREE: In the presence of the Most Holy Lord, in the same Vatican Palace, on the ninth day before the Kalends of December, in the year 1869, after the Most Reverend Cardinal Hannibal Capalti, Relator of the Cause, assisted by Cardinal Gabriel Ferretti, had proposed the following question: "Does it pertain to the Venerable Servant of God, John Juvenal Ancina, to possess the Theological Virtues of Faith, Hope, and Charity, in God and in neighbor; and the Cardinal Virtues of Prudence, Justice, Fortitude, and Temperance, together with their associated qualities, in a heroic degree, in the case and to the extent that is being considered?" the Most Eminent Cardinals, Prefects of the Sacred Rites, and the Consultors, expressed their opinions. After hearing and considering these opinions, the Most Blessed Father decided to pronounce his judgment, and he encouraged the Cardinals and other present to join him in prayers to obtain the illumination of the Divine Spirit. "Finally, he decided to open his heart on this day to Saint Francis de Sales, who was also a member of the Order of Saint Philip Neri, and who, while living, treated the Venerable Juvenal with piety and familiarity, and who, after his death, honored him with the highest praise. Therefore, the Most Holy Lord, having offered the Sacrifice of the Eucharist in the private chapel of the Pontifical buildings, went to the Church of Saint Mary, called from humility, and united with the College, which he himself founded for the instruction of clerics coming from North America; and after attending Mass, while seated on the throne, he called to him the Most Reverend Cardinal Constantinus Patrizi, Bishop of Porto and Santa Rufina, Prefect of the Congregation of Sacred Rites, together with the Most Reverend Cardinal Hannibal Capalti, Relator of the Cause, together with the Reverend Father Dominic Minetti, Promoter of the Holy Faith, and myself, the undersigned Secretary, and, in their presence, declared: 'It pertains to the Venerable Servant of God, John Juvenal Ancina, to possess the Theological Virtues of Faith, Hope, and Charity, in God and in neighbor, and the Cardinal Virtues of Prudence, Justice, Fortitude, and Temperance, together with their associated qualities, in a heroic degree, in the case and to the extent that is being considered.'" "This Decree was ordered to be published and recorded in the acts of the Congregation of Sacred Rites on the fourth day before the Kalends of February, in the year 1870." C. Episc. Port, et S. Rufinae Card. PATRIZI S. R. C. Praef. >B. Sign. Dominic Bartolini S. R. C. Secretarius.

[*Latin ed. p. 394*]

DECREE CONCERNING THE CONSECRATION OF OIL, IN THE ABSENCE OF BISHOPS, A MATTER FOR THE OECUMENICAL COUNCIL. "Certain Sacred Prelates who were present at the Oecumenical Council at

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the Vatican, foreseeing that they would be absent from their own Dioceses on the fifth day of the week, during the Lord's Supper of this year, and therefore would not be able to consecrate the Sacred Oil for the use of those same Dioceses on that day, humbly requested that the Most Holy Pope Pius IX would deign to provide for this necessity. Their request, along with the prayers faithfully reported to the Most Holy Pope by the undersigned Secretary of the Sacred Congregation for Sacred Rites, having been considered by His Holiness, who also took into account the opinions of another of the Masters of the Sacred Ceremonies, and of the Most Reverend Lord Assessor of the same Sacred Congregation, who had before their eyes concessions granted in particular and similar cases; with supreme authority, derogating from the ecclesiastical prescriptions concerning this matter, He granted that, in Dioceses in which the Most Reverend Ordinaries are not present; if a titular Bishop cannot be found, or if the Sacred Oil cannot easily be consecrated in neighboring Dioceses this year, oil consecrated in the previous year may be used in the Blessing of the Baptismal Font, both on Holy Saturday and on the Saturday of Pentecost, as well as in the solemn administration of Baptism and in anointing the sick. The Most Reverend Ordinaries themselves will take care to inform as soon as possible those to whom this pertains of the aforementioned Apostolic Dispensation, so that the Sacred Oil does not fail; and, if there is urgent necessity, to mix a small and insignificant quantity of unconsecrated oil with the consecrated oils. This is without prejudice to any sanctions or decrees that may dispose otherwise." "February 17, 1870." C. The Bishop of Portuense. and S. Rufinae, Cardinal PATRIZI, S. R. C., Prefect. In place of the Signature, Dominic Bartolini, S. R. C., Secretary.

[*Latin ed. p. 395*]

FROM THE SECRETARY OF BRIEF LETTERS, CONCERNING TWO CHALDEAN APOSTOLIC PATRIARCHATES WHICH ARE VACANT, SO THAT THE ROMAN PONTIFF MAY PROVIDE FOR THEM, ACCORDING TO THE ESTABLISHED NORMS AND THOSE SANCTIONED AT THE TIME WHEN THE SECULAR CELEBRATIONS OF THE PRINCIPAL APOSTLES WERE HELD IN ROME. TO THE BELOVED SON, PETER HATTAR, CHALDEAN PRESBYTER. POPE PIUS IX sends greetings and his Apostolic Benediction. "The supreme office of the Apostolate demands, in accordance with the humility of Our position, that, as was entrusted to the Blessed Peter, the principal of the Apostles, by Christ the Lord Himself, We must above all exercise singular diligence and vigilance, so that worthy and suitable pastors may be appointed to the Churches of every nation and rite. For this reason, when We indicated certain rules to be permanently observed for the election of Bishops in the Armenian Patriarchate, We openly declared, both in the Consistorial Address given on July 4th of the year 1867, and in Our Constitution

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which begins with the words Reversurus, published on the same day, that We would first regulate this most important matter in the other Eastern Rite Patriarchates as well (1). "All of these matters were presented to the Venerable Brother, Joseph, Patriarch of Babylon of the Chaldeans, to whom the Acts of the aforementioned Consistory, together with the aforementioned Constitution, had been transmitted by Our Congregation for the Propagation of the Faith concerning Eastern Rite Affairs, with all due obedience." (1) See the aforementioned Address in Volume III, page 343, and the Constitution Reversurus, which you will find there on page 386 and following.

[*Latin ed. p. 396*]

396 APOSTOLIC LETTERS were received. For, after enduring the inconveniences of a long journey and a most difficult region, he had, in the mountains of Gurdistan, devoted himself with zeal and usefulness, according to his custom, to bringing back the Nestorians into the bosom of the Church. He commanded that: "To the Most Reverend Father Elijah, Bishop of Akra of the Chaldeans, whom We had appointed to represent Us in this Apostolic See with solemn secular authority, in the names of the Holy Apostles Peter and Paul, he should signify to Us and to Our aforementioned Congregation that he would receive with obedience and eagerness whatever We might deem beneficial for the good of the Chaldean Church: which was done by the same Bishop, both in writing and verbally. After, however, having returned to his city and seat, Mausiliene, or Mosul, he sent to the same Congregation letters on the eve of August of the preceding year, and openly declared that, with regard to certain rules to be established for the election of bishops, he did not at all dissent from Our will, which he professed to receive with all reverence and obedience; nay, he even desired that the Churches pertaining to the Orient be reformed, with all things instituted in proper order; and to this end, clear laws should be enacted concerning the order of the rite, the divine office, the administration of the sacraments, and all ecclesiastical affairs. He further demonstrated his most obedient sentiments by presenting, in the same letter, the names of several priests of his rite, so that We might judge them to be more worthy and more useful to the Church in the Lord, especially for the Church of Amidena, or Diarbekir, which had been vacant for the year before; and also for the Mission "Sui Iuris" of Mardin, which had, at that very time, been deprived of its pastor. All of these things were, indeed, a great source of consolation to Us, and brought great relief to the tribulations and anxieties with which We are beset on all sides; for they demonstrated the outstanding zeal of the aforementioned Venerable Father Joseph, Patriarch, in providing for the welfare of the flock entrusted to him, and his singular faith and devotion towards Us; and at the same time, they paved the way for the dignity and vigor of ecclesiastical discipline to flourish anew in the Catholic

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Chaldean Church. We shall never be wanting in our desire and our efforts, as far as the Lord shall permit, to fulfill his wishes; nor shall We ever allow our efforts, which have always been, and will always be, a solemn duty to Us and to Our predecessors, to be lacking in the proper ordering of the Eastern Churches. "Therefore, the Archiepiscopal Church of Amidena, or Diarbekir, of the Chaldeans...

[*Latin ed. p. 397*]

LETTERS APOSTOLIC, dated January 12th, in the year 1847. To the Venerable Brother Peter George de Natale, who, having been transferred from the Chaldaean seat of Geziren, is now vacant and remains so due to the death of the aforementioned Peter George, who passed away in the suburbicarian diocese of Albana. Since the aforementioned Venerable Father Joseph, the Patriarch, has proposed to Us several priests whom he deems suitable for governing that diocese, as mentioned above, We have entrusted the entire matter to Our Venerable Brothers, the Most Reverend Cardinals of the Congregation for the Propagation of the Faith, concerning matters of the Oriental Rite. Having heard their report, We turn Our mind and heart to You, whom the same Venerable Father, the Patriarch, proposed to Us, along with others, as being endowed with honesty of character, prudence, ecclesiastical zeal, and other necessary qualities. Therefore, We absolve and declare absolved from any excommunications, interdicts, or other ecclesiastical censures, sentences, and penalties, of any kind or for any reason, which You may have incurred, solely for this purpose, by the counsel of the aforementioned Venerable Brothers, Our Most Reverend Cardinals, and We hereby appoint You to the Archiepiscopal Church of Amidena, also known as Diarbikiren, with the Apostolic authority of the Chaldaean Church. We fully entrust to You the care, governance, and administration of that same Church, both in spiritual and temporal matters.

"We desire that You may freely and lawfully receive and exercise the office of consecration, with the assistance of the aforementioned Venerable Father, the Patriarch, or another prelate specially designated by him, and with the presence of two other Catholic bishops, whether Chaldaean or of another rite, or, if these are lacking, of any rite who are in communion with the Apostolic See. However, We decree and strictly command that, before receiving the aforementioned office of consecration, You publicly profess the Catholic faith, according to the form defined by Our Predecessor, Urban VIII, together with an oath of obedience and fidelity due to Us and Our Successors, in the presence of the aforementioned Venerable Father, the Patriarch. But if, may it never be, You should presume to receive the episcopal consecration without first making the aforementioned profession of faith and oath, know that You, along with the prelate who would dare to consecrate You in such a manner, will incur Our displeasure, and that of

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the Holy Apostles Peter and Paul; and furthermore, You will be excluded from the exercise of the pontifical office, as well as from the governance and administration, whether spiritual or temporal, of the aforementioned Church."

[*Latin ed. p. 398*]

398 APOSTOLIC LETTERS: Your church will, by this very act, be suspended. Furthermore, the profession of faith sent by you, and the oath which you have sworn, a genuine copy of which is signed by your own hand, strengthened by the subscription of the Most Reverend Patriarch, and secured with your seals, we order to be sent to us as quickly as possible through the Most Reverend Nicholas, Archbishop of Marianopolitan, our Delegate and of this Apostolic See in Mesopotamia, in Lesser Armenia, in Kurdistan, and in Persia. "We trust in the Lord that you, eagerly accepting the burden entrusted to you with the grace of Our Benediction, will diligently and solely seek those things that are of Jesus Christ; and that in your diocese, residing personally and continuously according to the sacred Canons, you will strive to confirm Catholics in the profession of faith, to bring back those who have strayed to the bosom of Holy Mother Church, and to fulfill all other parts of your most important ministry with the utmost care. Above all, you must devote all your care so that all the faithful entrusted to you, free from all contention and rivalry, may be concerned to preserve the unity of the spirit in the bond of peace, and that the peace of Christ may abound in their hearts. And since the administration of certain ecclesiastical goods has been found to be the occasion of disturbances and contentions, therefore, we order that appropriate instructions and mandates be given to you by the aforementioned Congregation, so that you may properly address this matter. "Finally, we command you, and strictly order you, to always show canonical obedience and reverence to the Venerable Father Joseph, the Patriarch, and to his successors confirmed by this Apostolic See; and we expressly command the clergy and the people of that your diocese of Amiden, to receive you as their legitimate pastor, and to follow you with due honor and obedience. "These things we wish, we decree, and we order, contrary to all things, even those deserving of special and individual mention, notwithstanding. "Given at Rome, at St. Peter's, under the Fisherman's ring, on the 22nd of March, 1869, in the twenty-third year of Our Pontificate." N. CARD. PARACCIANI CLARELLI.

[*Latin ed. p. 399*]

399 APOSTOLIC LETTERS TO THE BELOVED SON GABRIEL FARSO, CHALDEAN PRIEST, FROM POPE PIUS IX. Beloved Son, Greetings and Apostolic Benediction. "The supreme duty of the apostolate, entrusted to Our humility in the person of the Blessed Peter, Prince of the Apostles, by the Lord Jesus Christ Himself, above all demands that We continuously

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apply singular diligence and vigilance, so that worthy and suitable pastors may be appointed to the Churches of every nation and rite. For this reason, having indicated certain rules to be perpetually observed for the election of Bishops in the Armenian Patriarchate, We openly declared, both in the Consistorial Address given on July 14th of the year 1867, and in Our Constitution which begins with the words *Reversurus*, published on the same day, that We would first regulate this most important matter in the other Eastern Rite Patriarchates as well. "All of these things were received with utmost obedience by the Most Reverend Father Joseph, Patriarch of Babylon of the Chaldeans, to whom the acts of the aforementioned Consistory, together with the aforementioned Constitution, had been transmitted by Our Congregation for the Propagation of the Faith concerning Eastern Rite affairs. For, having, after a long period of age and the inconveniences of a difficult region, diverted himself to the mountains of Kurdistan, in order to devote himself with zeal and usefulness, in his own manner, to bringing back the Nestorians into the bosom of the Church, the Most Reverend Father Elijah, Bishop of Akra of the Chaldeans, whom We had appointed to represent Him solemnly at this Apostolic See during the secular celebrations of the Holy Apostles Peter and Paul, was instructed, in His name and in His stead, to signify to Us and to Our aforementioned Congregation that he would readily and zealously accept whatever We might establish for the good of the Chaldean Church: which was done by the same Bishop, both in writing and verbally. After, however, having returned to his city and seat in Mosul, he sent letters to the same Congregation on the eve of August of the preceding year, in which he openly declared that, with regard to certain rules to be established for the election of Bishops, he did not at all dissent from Our will, which he professed to receive with all reverence and obedience; nay, indeed, he expressed his desire that those things pertaining to the Eastern Church should be ordered in all respects with due propriety."

[*Latin ed. p. 400*]

400 APOSTOLIC LETTERS are established, and they are reformed; and for this purpose, clear laws are enacted concerning the order of the rite, the divine office, the administration of the sacraments, and all ecclesiastical affairs. Those who are most obedient have given us proof of their sentiments, having, in the same letter, proposed the names of several priests of their rite, so that we might judge them to be more worthy and more useful to the Church in the Lord, namely, those from Amida, or Diarbekir. The Church of Mardin, which had been vacant for the previous year, and to which it had recently happened that the pastor, namely, that of Mardin, had been lost, were to be appointed. All of these things have certainly been a great consolation to Us, and have brought great solace amidst the tribulations and anxieties with which we are beset on all sides, since the outstanding zeal of the aforementioned Venerable Father Joseph, the Patriarch, in providing

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for the welfare of the flock entrusted to him, and his singular faith and devotion towards Us, were evident; and at the same time, they paved the way for the dignity and vigor of ecclesiastical discipline to flourish anew in the Chaldean Catholic Church. We shall never be wanting in our desire and our will, as far as the Lord permits, nor shall we ever allow our efforts, which have always been and will always be a solemn duty to Us and to Our predecessors, to be lacking in the proper ordering of the Eastern Churches. "Now, since the Episcopal Church of the Chaldeans of Mardin is vacant, through the death of the Venerable Father Ignatius Decstu, the last of the same bishops; and since the aforementioned Venerable Father Joseph, the Patriarch, has proposed to Us several priests whom he considers suitable to govern that diocese, as mentioned above, we have entrusted the entire matter to our Venerable Brothers, the Cardinals of the Holy Roman Church, of the Congregation for the Propagation of the Faith, concerning the affairs of the Eastern Rite. Having heard their opinion, we turn our mind and heart to you, whom the Venerable Father Patriarch proposed to Us, along with others, as being endowed with honesty of character, prudence, ecclesiastical zeal, and other necessary qualities, and who recently, while performing the office of Apostolic Visitor in that same city of Amida, passed away diligently. Therefore, We, absolving you from any excommunications, suspensions, and interdicts, and from all other ecclesiastical censures, sentences, and penalties, in any way or for any reason, if you may have incurred them, for this very purpose, and considering you absolved, by the advice of the aforementioned Venerable Brothers, Our Cardinals, grant this Apostolic..."

[*Latin ed. p. 401*]

We, with full authority, preface these APOSTOLIC LETTERS, and We entrust to you completely the care, governance, and administration, both spiritual and temporal, of the same Church. "We desire that you may freely and lawfully receive and exercise the office of consecration, with the assistance of two other Catholic bishops, Chaldean or otherwise, who possess the grace and communion of the Apostolic See, or, if these are lacking, of others of each rite, by the aforementioned Venerable Father Joseph, the Patriarch, or by another prelate specially designated by him. However, We decree and strictly command that, before you receive the said office of consecration, you publicly profess the Catholic faith according to the form defined by Our Predecessor, Urban VIII, together with an oath of obedience and fidelity due to Us and Our successors, in the hands of the aforementioned Venerable Father Patriarch. But if, may it never happen, you should presume to receive the episcopal consecration without first making the aforementioned profession of faith and oath, know that you, together with the prelate who would dare to consecrate you with such sacred ceremonies, will incur Our displeasure and that of the Holy Apostles Peter and Paul; and furthermore, you will be suspended from the exercise of the pontif-

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ical office, as well as from the governance and administration, whether spiritual or temporal, of your Church. Moreover, We command that a genuine copy of the profession of faith made by you and the oath taken by you, signed by your own hand, strengthened by the subscription of the aforementioned Venerable Father Patriarch, and sealed with your seals, be sent to Us as soon as possible through the Venerable Father Nicholas, the Archbishop of Martianopolitan, Our Delegate and that of this Apostolic See in Mesopotamia, in Minor Armenia, in Kurdistan, and in Persia. "We trust in the Lord that, eagerly accepting the burden entrusted to you with the grace of Our Benediction, you will diligently and solely seek the things that are of Jesus Christ; and that in your diocese you will strive to reside personally and constantly, according to the sacred canons, to confirm the Catholics in the profession of faith, to bring back those who have strayed to the bosom of the Holy Mother Church, and to diligently fulfill the other important duties of your ministry. "Finally, We command you and strictly order you to always exhibit canonical obedience and reverence to the Venerable Father Joseph, the Patriarch, and to his successors confirmed by this Apostolic See; and We expressly command the clergy and the people of this your Chaldean diocese of Mardin, that you be regarded as their legitimate pastor, according to volume V, title V, canon 26."

[*Latin ed. p. 402*]

402 APOSTOLIC LETTERS should be received with devout acceptance, and due honor and obedience should be shown to them. "We desire, we decree, and we command this, notwithstanding any objections, even those of individuals who might be especially worthy of consideration. " Given in Rome, at Saint Peter's, on the 22nd of March, in the twenty-third year of Our Pontificate." N. CARD. PARACCIANI CLARELLI. "*" APOSTOLIC LETTERS GRANTING AN INCREASED INDULGENCE FOR THE RECITATION OF THE HOLY ROSARY DURING THE ECUMENICAL COUNCIL OF THE VATICAN. PIUS IX. TO THE FUTURE MEMORY. "Inspired by the example of the distinguished Founder of his Order, and with the desire to follow in his footsteps, the Most Reverend Vincent Jandel, Master General of the Order of Preachers, humbly presented to Us, demonstrating that it would bring great benefit to the Christian cause if all the faithful throughout the world were encouraged to recite the Rosary of the Blessed Virgin Mary more frequently. For just as Saint Dominic used this prayer as an invincible sword to restrain the heretical sect of the Albigenses, which threatened the peace and tranquility of the Christian commonwealth, so too, if the faithful are equipped with this spiritual armor, namely, the daily recitation of the Rosary of the Blessed Virgin Mary, they will more easily be able to repel and eradicate the many errors that are rampant today, with the powerful help of the Immaculate Mother of God and with the authority of the Ecumenical Council of the Vatican which We are soon to convene.

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To ensure that this happens with greater certainty, he earnestly requested that We deign to add further indulgences to those already granted by Our Predecessors, the Supreme Pontiffs, to the faithful who use this form of prayer, the Rosary."

[*Latin ed. p. 403*]

APOSTOLIC LETTERS 403. Now that, with the most benign God so commanding, we have ascended to this Holy See of Saint Peter, we have placed all our trust in the Most Blessed Virgin Mary, holding it to be certain that to her alone was it given by God to destroy all heresies throughout the world. We have readily accepted the pious prayers offered to us, and we desire to grant the following: Wherefore, confident in the mercy of Almighty God and in the authority of the Apostles Peter and Paul, we grant to all and to each of both sexes who, until the end of the Ecumenical Council of Vatican, shall devoutly recite at least five decades of the Rosary each day of the week, observing also all that is prescribed in its recitation; and who, truly penitent and having confessed their sins, and having received Holy Communion, shall visit any church or public oratory, and there offer devout prayers to God for the happy outcome of the Ecumenical Council of Vatican, according to our wishes, we grant, to those who shall have performed these actions during that week, a plenary indulgence and remission of all their sins, which they may also apply for the benefit of the souls of Christian faithful who, united with God in charity, have departed from this life. This grant shall be valid during the time that the present General and Ecumenical Council is in session. We decree that the same faith shall be given to these present Letters, whether transcribed or printed, and signed by the hand of a public Notary and sealed with the seal of a person constituted in ecclesiastical dignity, as would be given to the present Letters if they were exhibited or shown. "Given at Rome, at Saint Peter's, under the Fisherman's Ring, on the day in December, 1869, in the twenty-fourth year of our pontificate." N. Card. PARACCIANI CLARELLI. These Apostolic Letters, in the form of a Brief, were presented to this Holy Congregation for Indulgences and Sacred Relics this day, January 8, 1870, according to the prescriptions in the General Decree of the same Holy Congregation, dated April 14, 1856. Witnessed, etc. Given at Rome from the Secret Archives of the said Holy Congregation. Dominic Sarra, Pro-Substitut.

[*Latin ed. p. 404*]

APPENDIX VII CONCERNING THE CONSTITUTION "Apostolicae Sedis" BY WHICH GENERAL CENSURES ARE LIMITED. CERTAIN GENERAL QUESTIONS. Our Most Holy Lord, through this Constitution, which I have explained on page 287 and following, has sought the good of the Christian commonwealth, so that a clearer and more certain path might be provided, both for Sacred Ministers and for Confessors, lest they

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be compelled to wander through the countless and difficult intricacies of censures, which have generally been imposed. Each person will not only read and understand the meaning declared in this Constitution, but will also clearly gather from the very removal and abrogation made of so many censures. For it has been observed by experts, considering how many authors have written about censures, and how many have collected or cited them over the course of centuries, that the minds of readers are often perplexed, even though nothing has changed, as to whether or not certain censures have ceased, either through disuse, or through the cessation of the end for which they were imposed, or through changes in circumstances. Although, as I have said, a clearer and more certain path has been provided, especially for Confessors, with regard to substance, through such limitations, it must not be thought that this Constitution does not require the commentaries and interpretations of experts. For it is the nature of all laws, even the wisest, that, when their application is considered, they should open the way to dispel doubts and inquiries, due to the variety of cases and circumstances. Let the example be the most ancient Roman Laws, both those called the Twelve Tables and the others that followed: these, although wisely composed according to the custom of the ancient Romans, were nevertheless so augmented by the interpretations of prudent men, that the Emperor Justinian, at his time, when putting his hand to the compilation of the Pandects through Tribonian, left this inscription: "When undertaking this great work, we have permitted that very learned works of antiquity, which were already almost confused and obscured, to be collected and, with a certain measure, handed down by that most excellent man (Tribonian)." But it was inquired of that most excellent man, and it was suggested that almost two thousand books had been written, and more than...

[*Latin ed. p. 405*]

APPENDIX VII: Three hundred million verses were poured forth by the ancients, which it would be necessary to read and examine all of them, and to choose from them what was best. This was accomplished by heavenly light and the favor of the Most Holy Trinity, according to our mandate. The interpretation of this Constitution pertains most to those experts in moral matters who guide the consciences of the faithful, and who, according to established principles of moral prudence, will explain it according to the various circumstances: nevertheless, certain principal points are contained in this Constitution, which offer us the opportunity to bring to light some principles of legal interpretation, which seem to be applicable to the Constitution in question. It must also be noted that it is not an easy matter to explain and interpret a new law (although the things about which the Constitution speaks are not new); and this, especially for two reasons: 1. Because a new law, precisely because it is new, has not yet acquired any

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determination through usage; 2. Because it can easily happen that an interpretation given by private individuals is contrary to, or goes beyond, the intention of the legislator, because the legislator, not foreseeing all the circumstances in drafting the law, by means of which it can be understood by the subjects, has not foreseen all cases as if he had foreseen them. Therefore, it often happens that, after a certain Constitution has been issued, new authentic declarations follow, which both determine usage and more fully explain the intention of the legislator. Such authentic interpretations are of two kinds: some are simple interpretations given according to the usual principles of interpretation, which do not differ from the interpretations of a private author except in terms of authority. For example, whether St. Alphonsus interprets the law in one way, or the Holy Penitentiary in another, the matter itself is the same, because the same principles are used to explain the law; but there is a difference in authority; because of this difference, the interpretation of a private author is only valid to the extent that it demonstrates; but the interpretation made by an Authority requires no further inquiry. Since the same principles are often used in interpretation, the authentic interpretation itself must also be understood according to the same principles. Other authentic interpretations are those which do not so much interpret the law, as they declare the intention of the legislator, which was not sufficiently expressed in the law: and therefore, they are interpretations beyond the law, and have the force of a new law: these interpretations, although not easily applied, must nevertheless be strictly observed. We have recently had examples of both kinds.

[*Latin ed. p. 406*]

406 APPENDIX VII: Here are examples given in authentic documents concerning the Constitution *Nemo*, issued on April 11, 1869, by which a plenary Indulgence in the form of a Jubilee is granted; it would be superfluous to explain these examples individually here.

I. CONCERNING THE REVOCATION OF FACULTIES: The most ancient practice in the Catholic Church is that by which the Roman See and certain Bishops reserve to themselves the absolution of certain sins, either by imposing a reserved censure, or without adding any censure: concerning which matter, the Fathers of Trent spoke in Session 14 on the Sacraments, chapter 7, as follows: "It seemed to our most holy Fathers to pertain greatly to the discipline of the Christian people, that certain very heinous and more grievous sins should not be absolved by anyone, but only by the highest Priests: therefore, the Supreme Pontiffs, by the supreme power entrusted to them in the entire Church, have been able to reserve certain causes of sins of greater gravity to their own special judgment."

The Roman Pontiff uses this faculty for the good of the Church and the faithful; that is, so that ecclesiastical discipline, concerning its principal principles, may remain firm; and so that the faithful may know more and

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more the gravity of sins through the imposition of censures, the absolution of which is granted to penitents by special grace.

However, so that absolution may not become too difficult, cases are reserved; therefore, the Roman Pontiff communicates special faculties to the Cardinal Major Penitentiary, and the extent of his delegated power is explained by Benedict XIV in the famous Bull which begins *Pastor bonus*, issued on April 13, 1744: and, besides the faculties properly granted, which are described therein, the Pontiff also grants or extends other faculties to him, according to the variety of circumstances; and he does the same concerning the other tribunal which presides over the propagation of the Christian faith, concerning all those who are engaged in missionary work.

Through such tribunals, not only are the faculties granted which are requested for individual cases, but also greater and lesser faculties are given to Bishops for absolving from censures reserved to the Holy See, according to the various places in which they are situated; indeed, even confessors can obtain similar faculties: which are usually granted for a determined time to both Bishops and confessors.

Therefore, we inquire: I. Whether such personal faculties, which are granted for a time by the Holy See, and which have been granted, or perhaps even are perpetual, if any such exist, can be revoked by a Rescript.

[*Latin ed. p. 407*]

APPENDIX VII: To Bishops or Confessors, matters are referred back by the words of the Constitution of the Holy See, which are read in § A, after the excommunications listed, which are reserved in a special manner to the Roman Pontiff. II. Whether the extraordinary faculties, granted through the Jubilee, are to be considered revoked. Having considered these matters, Our Most Holy Lord has deigned to respond to the inquiry with these words, translated into Latin: By the Constitution, We do not intend, not even in the slightest, to inflict detriment upon any faculties that were granted by the Holy See before the promulgation of this same Constitution, whether these are quinquennial [faculties], or extraordinary, or pertaining to the present Jubilee; and We wish that they remain in their full force and effect, for the duration specified in said concessions or indulgences (1). Indeed, We know that the customary indulgences, commonly called the "Pages of the Holy Penitentiary," are renewed for Confessors, without any alteration, and to these are now added the clauses "notwithstanding the Constitution, etc." This will be observed until a new formula for indulgences is prepared. Therefore, nothing is understood to be changed regarding such concessions; however, it will happen that certain sins or censures, which previously could not be absolved without a special indulgence, now require no special faculty that is expressed in these indulgences. Furthermore, the Constitution of which we are speaking enumerates general censures, and indicates the Tridentine...

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(1) Thus are the official letters, which were written by order of Our Most Holy Father, by the Illustrious and Reverend Monsignor, Assessor of the Holy Office, Lawrence Nina, to the Illustrious and Reverend Monsignor, Secretary of the Sacred Congregation for the Propagation of the Faith. "The undersigned Assessor of the Holy Office hastened to present himself to His Holiness in audience on Thursday morning, the 12th, concerning the doubt raised by some Bishops to this Sacred Congregation for the Propagation of the Faith, regarding whether, with the publication of the Apostolic Constitution *Apostolicae Sedis moderationi*, the same faculties to absolve from censures *latae sententiae*, which are especially reserved to the Holy Penitentiary and now... are revoked. He now fulfills his duty by communicating the result. "His Holiness has ordered that the same response already given on the same subject to the Most Reverend Bizzarri be communicated to the Reverend Fathers of the Council, so that they may know that with said Constitution, the Holy Penitentiary does not intend to cause the slightest alteration to any faculties of any nature that were granted by the Holy See before the promulgation of the same, whether they are quinquennial or extraordinary, or related to the present Jubilee, and that He wishes them to remain in their full force during the term specified in the respective concessions or indulgences. Therefore, they may communicate this same declaration to the Bishops who request it, for their peace and guidance."

[*Latin ed. p. 408*]

408 APPENDIX VII tinas, and He established that only these should remain in force, because for the others, only the cause for which they were instituted is remembered, the remaining ones having been abrogated; however, it is stated that those which are considered firm should also remain, and nothing is said about those concerning absolutions which are not general, but pertain to a particular circumstance, and the revocation of these faculties pertains to a specific group or place, and those which have remained in force up to this point.

ON THE TRIDENTINE CENSURES BEING CONFIRMED.

In the Constitution concerning which we are speaking, where all censures which, by their very nature and by law, are incurred universally are mentioned, except for those which are exempted, it can be asked whether the real faculties which are revoked also abrogate those faculties which pertain to censures reserved, but which are particular to certain groups or places. For example, suppose a Religious is subject to a censure which is proper to his Religious Institute, and which has also been reserved by the Roman Pontiff; suppose also that a Superior Religious, or another, has, by a perpetual and legitimate title, the faculty of absolving the Religious from that censure. The question is, whether, when the faculties are revoked, this

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faculty is also revoked.

It seems that faculties of this kind are not revoked. The reason is that the revocation of faculties pertains to the enumerated or indicated general censures; it does not pertain to the particular censures of groups or places.

The Tridentine Council inflicted certain censures directly, and others indirectly. This is demonstrated by examples. The censures which the Tridentine Council directly inflicted, I have already mentioned in the Constitution which I have explained, page 287 and following. The censures which the same Council indirectly inflicted are those which are indicated by that censure, namely, whether by general terms, as, for example, in session 21, chapter i, concerning appeals, where it is read: "and those who have committed sins subject to the penalty by law shall be excommunicated." And in the following chapter: "regarding the penalties of these canons, those who innovate them, and thus..." Furthermore, "by special allegations, as, for example, in session 14, chapter 6, concerning appeals, where it is read: 'The Constitution of Clement V, promulgated in the Council of

[*Latin ed. p. 409*]

APPENDIX VII, beginning with: "Since, by innovating and expanding..." In this Constitution, "Since" includes the mention of a certain suspension of the very act itself as a penalty; also, in session 2A, chapter 3, concerning Relics, it is read: "Furthermore, according to the Constitution of the General Council of Lyons, which begins: 'It demands...' that [someone] be penalized." In this Constitution, "It demands" states that, if anyone has not obeyed the imposed penalty, the prohibition of entering the church is declared to be incurred by the very act itself, or a suspension. Therefore, for the sake of practice, we inquire whether censures indirectly imposed by the Council of Trent are included under the Constitution of the Apostolic See. Or, to express it in other words, whether censures renewed by the Council of Trent, either through general terms or through special allegations, are in force after said Constitution. It seems that the answer is: they are not included, nor are they in force after said Constitution. The first reason is drawn from the purpose of the Constitution, which is to have a certain and defined number of censures in order to avoid more inconveniences; which is read at the beginning of the same Constitution: "Wishing to prevent such inconveniences, we have ordered that a complete review of these [censures] be made, and that we be informed, so that, after careful consideration, we might determine which of them ought to be preserved and retained, and which ought to be moderated or abolished. Therefore, after this review has been made... we decree that, of all the censures... only those that we insert in this very Constitution, and in the manner in which we insert them, shall have force." Furthermore, neither would the number of censures be certain, nor would those inconveniences be sufficiently removed, if the censures renewed by the Council of Trent through general

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terms were to be understood as included. Regarding the censures renewed through special allegations, it should be noted that very few old Constitutions were renewed by the Council of Trent in this way, which contain censures incurred by the very act itself; and those, if one excepts one or two Constitutions, were so innovated that it would sufficiently indicate that the Council did not intend the censures contained in them to be understood as renewed. Indeed, I have found that the Council of Trent innovated or mentioned twenty-seven Constitutions; among these, those that contain censures incurred by the very act itself are, for example, the Constitution of Sixtus IV concerning the Immaculate Conception of the Mother of God, which Constitution begins: "It is most grave..." and which is read in Extrav. commun. L. III, de Reliquiis et venerat. Sanet. c. 2, expressly renewed by the Council of Trent in Session 5 concerning original sin, § 5. By that Constitution, excommunication was imposed by the very act itself.

[*Latin ed. p. 410*]

410 APPENDIX VII, matters pertaining to which are reserved to the Roman Pontiff, apply to all those who contradict the Catholic doctrine of the Immaculate Conception, as well as to those who present it as a dogma already defined. This Constitution was abrogated by a solemn anathema attached to the doctrine defined by the Most Holy Lord. Another Constitution, which contains censures, is mentioned by the Council of Trent in Session 14, canon 8, concerning Penance, with these words: "If anyone shall say... that all the faithful of both sexes are not bound to confess all their sins, both in kind and number, to a priest, according to the Constitution of the great Council of the Lateran, at least once a year, let him be anathema." The Constitution of the Lateran mentioned above is contained in a famous canon with these words: "Every faithful man or woman, after reaching the age of discretion, shall confess all his or her sins to a priest, truthfully, at least once a year, and shall strive to fulfill the penance prescribed with all his strength, and shall reverently receive the sacrament of the Eucharist at least at Easter, unless, perhaps, with the advice of his own priest, he shall judge it prudent to abstain from it for a time for some reasonable cause; otherwise, both the living and the dead shall be deprived of Christian burial." However, this Constitution was mentioned by the Council of Trent for a different reason than for punishments; nor is the punishment of excommunication understood as one imposed by a definitive sentence, but rather as one imposed by the very word "arceatur" (be excluded). A third Constitution, which seems to contain censures and was renewed by the Council of Trent, is that which I mentioned above, issued by Clement V at the Council of Vienne, which begins with the words "Quoniam"; and it contains several punishments against clerics who do not wear the clerical garments appropriate to their order, which the Council of Trent renewed in Session 14, canon 6, concerning Reforms, with these words: "If they have

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been corrected once and then offend again in this matter, they may and should be restrained by the deprivation of offices and benefices, renewing and expanding the Constitution of Clement V at the Council of Vienne, which begins with the words 'Quoniam'." However, 1°, the Council of Trent renewed this Constitution by expanding it: which means that the punishments which the Council of Trent prescribed are superior to the punishments of the Constitution; 2°, in this Constitution, indeed, a suspension is incurred by the very act, but a suspension only from the fruits of benefices and for a limited time, which suspension, since it consists in the deprivation of fruits, does not deserve to be called a censure. Our readers can recall this Constitution, "Quoniam," in Volume IV, pages 394-. A fourth Constitution, which contains censures and was renewed by the Council of Trent, is that which the Council of Trent...

[*Latin ed. p. 443*]

SALE AND PURCHASE. February 18, 1870. Summary of the case. The cause is that which I have explained in Volume II, pages 418 and following, and it is expedient here briefly to recall the particulars of this case. The nuns of the monastery N. wishing to sell a certain property, invited all who wished to do so to submit written and signed offers within a specified period; at the expiration of this period, the letters containing the offers were to be opened and considered. One of the offerers was Philip, who offered 382 scudi. The nuns, having reported the matter to the Sacred Congregation of Bishops and Regulars, obtained the faculty to sell the property through a Rescript, with the favor of Philip... at a price of at least 382 scudi, reserving the right to the twentieth and sixth portions, and with the faculty of reducing the terms to ten days for the twentieth, and the same for the sixth. In accordance with this Rescript, notices were affixed, and several other offerers were found, the highest of whom offered 412 scudi; upon this offer being announced, Philip promised to pay the same sum. After affixing notices for the sixth portion, further offers were made, the highest of which was offered by Thomas for 600 scudi; this offer, having been announced to Philip, he refused to accept, and thus Thomas remained the holder of the sixth portion, to whom the property was to be assigned. After the expiration of ten days, new offerers appeared, the highest of whom was Fructuosus, who offered 720 scudi, and also John, who offered 710 scudi. Knowing this, Thomas protested, claiming that, having elapsed the useful term, he was the definitive holder of the right to deliberate, and that it was not permissible for the nuns to proceed with further actions against the right acquired by him. With all matters suspended, the nuns petitioned the Sacred Congregation as to what they should do; and after a dispute arose, the Sacred Congregation responded on August 24, 1866: that none of the offerers had the right to obtain the right to deliberate; but, considering the particular circumstances, that Thomas (N.) should accept the offer of 720

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scudi within ten days of its announcement, and that the property should be sold to him; otherwise, to Fructuosus (N.), and so on.

[*Latin ed. p. 444*]

444 Regarding the purchase and sale, Thomas refused to agree to the sum of 720 scudi, and thus the nuns negotiated the sale with Fructuoso. However, he also withdrew from the agreement for this reason, because the aforementioned John, who had offered 710 scudi, brought a lawsuit against the nuns, concerning the house that he owned, which was adjacent to the small house to be sold, claiming that he should be given preference. Therefore, negotiations began with John; but he also gradually refused to fulfill the contract through a formal agreement, constantly demanding documents that would demonstrate how the house had come into the nuns' possession. Since the matter was being prolonged to the detriment of the small house, which needed renovation, the nuns decided to summon John to court, so that he would fulfill his obligation; but John responded that he was renouncing his right of preference, and with a legal renunciation issued, the nuns' procurator turned to Thomas to fulfill the obligation he had undertaken, but he also refused. Meanwhile, another offerer appeared, who offered 500 scudi: therefore, the nuns presented a petition to the Sacred Congregation, requesting permission to sell the house to this new offerer, also abandoning all other attempts at sale, including the twentieth and sixteenth. The Ordinary, upon being asked for information and a vote, replied: "The option should be given to John, either to purchase the house at the agreed price of 720 scudi, since his renunciation of the right of preference is invalid; or to sell the house to any other offerer at a lower price, but in such a way that John must contribute to fulfilling the sum of 720 scudi." The same Ordinary, by order of the Sacred Congregation, informed John of such a proposal, who, excusing himself, finally agreed to purchase the house, but in such a way that the monastery would receive an annual reserved payment of 5 scudi for each hundred of the agreed sum. In response to this, the Sacred Congregation issued a decree: "Regarding the requested sale, in favor of John, at the price of 720 scudi, with the compensatory fruits paid, and with the property temporarily subject to a special mortgage, until the price, which must be paid within three years, is fully settled and invested." Since John did not seem willing to do even this, the matter was brought before the full Congregation to be resolved, with all due diligence.

[*Latin ed. p. 445*]

SALE AND PURCHASE. Disputation 445, summarized. THE RIGHTS OF JOHN. It was considered, concerning John, that the right of preemption which belonged to John did not necessarily imply an obligation to purchase the house; for each one can validly renounce his right, as well as

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the benefit thereof; "for a benefit is not granted against the will" (Reg. 69 ff. de Reg. iuris). However, it is erroneous to deduce an obligation from the damages which the monastery might suffer as a result of said renunciation; for it does not seem just that one should be compelled by the exercise of his own right – moreover – "No one does damage, unless he who does it has no right to do so" (I. 151 e 155 ff. de reg. iuris). But, supposing that John is bound by an obligation, that obligation must be fulfilled, provided a just cause intervenes; and a just cause is provided by the monastery itself, which is obligated to provide to the buyer, so that the matter may proceed without dispute (I. 11 § % I. 30 § 1 ff. de act. empt. et vend.). However, if the monastery does not provide the instruments and titles to demonstrate the legitimate origin of ownership, the obligation appears to be dissolved. Nor can the prior, Fructuosus, be compelled to purchase the house, since the monastery acted in the sale not with Fructuosus, but with John; just as Fructuosus would have been released from the obligation if the offer of Scut. 720 had been accepted by Thomas; so, conversely, Fructuosus is released from the obligation by the acceptance made by John. THE RIGHTS OF THE MONASTERY. It was considered, concerning the Monastery, that the exercise of its own right is permitted, as long as no injustice or damage is inflicted upon another. John, however, has been substituted in the place of the first buyer through the desired pre-emption, with the right of pre-emption in the other offeror ceasing. Therefore, he cannot recede from the purchase of the house; for if he were to recede, the monastery would be obligated to make him whole; concerning which, in I. 33 ff. de dolo malo, it is written: "The possessor of a thing which was for sale began a lawsuit concerning the property against the adversary; and after having destroyed the opportunity of the buyer, to whom it could have been sold, he abandoned it; it was decided that the possessor, in this case, had a right of action in fact with his own indemnity." This passage is thus embellished by the Glossa: "I was able to buy a book, and when I wanted to sell it to you, Titus raised a question about that book with me, and therefore you did not buy it."

[*Latin ed. p. 446*]

446. CONCERNING SALES AND PURCHASES: "A book, but you purchased another from someone else; however, Titus is prevented from acting." Here, it is stated that this Titus is bound to me by deceit, "or, if he is a parent or guardian." The question, however, was whether he could withdraw from a request for priority of claim, and the opinion of Gorradini was brought up. This Gorradini, treating of the law of priority, in page 2, paragraph 10 and following, wrote concerning our matter: "Either an action was undertaken to obtain priority, and the seller suffered damage from this action, for example, because he lost the opportunity to sell, since the one who wished to buy, or who had already concluded a contract,

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refused to buy further, and this was permitted to him by some agreement stipulated in the contract, and then, because damage arose to the seller from this action undertaken, it will not be permissible for the one requesting priority, even if no judgment has been rendered, to change his mind, but he will be bound by the action in fact to the detriment of the seller, or by an action for deceit, if, immediately after the opportunity to alienate the property has passed, he declares that he does not wish to buy any longer—otherwise, many frauds could be committed: and after the opportunity to sell the property has passed, to change one's mind would clearly be fraudulent, and deserving of more than such a legal punishment." Furthermore, the exception raised by John (as if the monastery had not sufficiently demonstrated the legitimate and long-standing origin of its ownership) does not appear to be valid in fact, since he has presented sufficient documents; and it seems that John himself would be admitting this, when he requested the establishment of a reserved payment. This, however, would be detrimental to the monastery, since it enjoys the right to compel John to fulfill the conditions that others who had received the benefit had fulfilled. Finally, if John were declared exempt from the obligation to buy or to benefit the monastery, it should not be considered that Fructuosus is released from this obligation: for Fructuosus has truly and absolutely deliberated in accordance with the resolution of the Holy General Council, and the monastery has not renounced its right in Fructuosus acquired; but has passively submitted to the force of external law, which John, claiming a right of priority, has alleged: therefore, if this impediment ceases, in any way, Fructuosus should not appear to be released from the certain contract.

[*Latin ed. p. 447*]

EMPTIONIS-VENDITIONIS 447. Quaestio. « Utrum, et si ita, quomodo et in quem, sit obligatio emendi « donum vel indemnite reddendi monasterium in casu ». RESPONSUM. Sacra Congregatio Episcoporum et Regularium, causa cognita die 18 Februarii 1870, respondit: Affirmative, pro venditione favore (Ioannis) et ad mentem: stipulatio debeat locum habere intra terminum duorum mensium pretio scutatörum 720, concesso etiam termino sex annorum pro solutione dicti pretii, repensis interim fructibus compensativis ad rationem scutatörum quinque in singula centum, et praeter reservationem dominii. Ex QUIBUS COLLIGIS: I. Ius praelationis, quod acquiratur in rerum licitatione, obligationem secumferre erga venditorem complendi emptionis contractum. II. Ius praelationis cedi posse alteri, qui illud affectet, accedente tamen consensu venditoris. III. Cessio narium, hac ratione, subintrare in eadem iura easdemque obligationes, quibus, qui cessit, tenebatur. IV. Obligationes consistere in emptione complenda per solutionem integri oblati pretii, quo ius praelationis fuerit acquisitum, vel in indemnitate rependenda venditori si ab emptione complenda emptor resiliat. V. Discrimen tamen intercedere

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inter ius praelationis acquisitum iure licitationis et ius praelationis acquisitum ex cessione alterius extra licitationem. VI. Primum ius perimere iura aliorum licitatorum et obligationes; alterum vero, si forte périmât ius cedentis, posse non perimere obligationes eiusdem cedentis erga venditorem, si cess ionario suae obligationi non satisfaciat. VII. Maxime si venditor sit pius locus, qui ex facto proprio deteriorem reddere non potest suam conditionem. VIII. In praesenti themate, Ioannem subrogatum esse, accedente aliquo monasterii consensu, in iura et obligationes Fructuosi a quibus dissolvi idem Ioannes sine iniustitia tum in cedentem tum in monasterium amplius non posset.

[*Latin ed. p. 448*]

FROM THE HOLY CONGREGATION FOR THE SACRED RITUALS, ROME. CONCERNING THE CULT ATTRIBUTED TO THE BLESSED URBAN, WHICH HAS BEEN OBSERVED FROM TIME IMMEMORIAL. We present a case which, through the vicissitudes of time, has undergone many changes. For the cause of canonization of Urban V, whose cult was once most flourishing, was first compelled to cease due to the grievous schism. Furthermore, in the inquiry made in Rome under Clement X, in which the cult of many Roman Pontiffs was authentically recognized, his cause remained neglected. Nevertheless, the cult persevered, especially in Massiliae, where his remains repose; however, it was compelled to cease in the year 1789, when impious men, seeking to destroy the Divine cult as much as possible, overturned everything, both human and divine. Today, as the centenary of his death approaches, the cult which has been rendered to him for centuries is authentically recognized and confirmed, and indeed, by a double judgment (which has not occurred in previous cases of this kind). His cult, depressed by the calamities of time, now seems to be reviving as a sign of the calamities of those times being overcome. Urban V was born of a noble family of Grimoard, in the year approximately 1310, in the castle of Grisaci, in the diocese of Mimatensis. While still a young man, he began monastic life in the Priory of Chiriaco, which he solemnly professed in the monastery of St. Victor in Massiliae, of the Order of St. Benedict. Devoted to the study of canon law, he explained Decrees with great merit for almost twenty years in Tolosae, in Montepessulano, Parisiis, and Avenione.

[*Latin ed. p. 449*]

MARSEILLES. 449 In the year 1352, he resigned from the position of Abbot of Saint Germain of Auxerre; and later, in the year 1361, he was appointed Abbot of Saint Victor of Marseilles. He had served in numerous legations for the arduous affairs of the Church throughout Italy. When he was in Naples, upon the death of Innocent VI, he was elected Supreme Pontiff, and having returned to Avignon, he was solemnly consecrated on the sixth of November in the year 1362. As his contemporary biographer states,

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his election seems to have come more from God than from men. Upon assuming the pontificate, he devoted himself above all to three things: the reform of morals, the propagation of the Catholic faith among the Gentiles, and the restoration of the Apostolic See to Rome. Among other things, the author of his life, a contemporary, wrote: "He was diligent and attentive in the Consistories and councils, devoting to them the proper times and hours, and he concerned himself with all diligence regarding the proper and swift execution of the affairs of the Church and those incumbent upon him, and especially those concerning the poor; and he often expedited these matters, even without being requested. He greatly fostered and loved justice. He always had a particular concern for the poor, the needy, and other miserable persons; so much so that when he learned that some of the poor were in need, he generously and graciously provided for their needs, especially those who had formerly been wealthy and who, having been reduced to poverty, were ashamed to beg. He did not care to accumulate money; and if at any time he had any, he either happily expended it on the affairs of the Church or donated it to pious works. He showed that he did not have carnal affections for anyone. He had a sincere and good intention of doing everything that he believed would be pleasing to God, and of avoiding the contrary, and he had constancy in mind, truth in his words, and effectiveness or virtue in his actions. In matters pertaining to God, he feared no one, except Him whose grace he had received, and he ruled in such a way and with such virtue that he was universally loved by the good and feared by the wicked." "He severely persecuted usurers, so much so that, according to accounts, more than two hundred thousand francs were restored to those who had been wronged in the Curia on this occasion during his time. He severely punished concubinaries and others who publicly led immoral lives, especially clerics, and brought them to correction and amendment."

[*Latin ed. p. 450*]

450. MASSILIEN. He compelled all to come. He detested the Simonians. He ordered that those who bought and sold ecclesiastical benefices, or spiritual graces, or who engaged in illicit transactions, dealings, or arrangements concerning them, should be punished in many ways; indeed, he expelled many from the Curia. He tolerated the multiplication of benefices, especially those incompatible, which coincided in the same person. Concerning this, he also issued a Constitution, which begins with the word "Horribilis." He greatly loved learned men; and he promoted and exalted many of them. And in order to provide others with material and opportunity for learning, as long as he lived in the papacy, he maintained, at his own expense, a thousand students in various studies. From among these, when some had already progressed, or others were deficient, he continuously sought out others to take their place. He also provided necessary

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books, both to them and to many others whom he knew to be devoted to study, and who were in need of them. In Montepessulano, where the science of medicine especially flourished, he founded a college for twelve scholars, who would study in that faculty and reside there; and for their sufficient support, he acquired and ordered certain revenues. He steadfastly maintained and preserved the liberties and rights of the churches; and if anyone infringed upon them, when, after due admonitions and exhortations, he saw that they did not improve, he vigorously and rigorously proceeded against them with processes and sentences, demonstrating himself to be resolute, constant, and courageous, although he was kind to everyone, thus marvelously showing himself in this regard; and thus and in this way, the Church remained sufficiently in peace and freedom everywhere in his time. Among the more celebrated deeds which are handed down to memory, these are recounted. In the year 1363, in the month of March, he solemnly excommunicated the heretical Duke of Mediolani, who had unjustly occupied several ecclesiastical territories. In the same year, he preached the Crusade against the infidels, and presented it to the Kings of Gallia and Cyprus, John and Peter, who had conquered Alexandria in Egypt. He also promoted Apostolic missions among heretics and schismatics; he held councils; he built many temples and monasteries. In order to restore the See of Peter to its rightful place, he set out for Rome in the latter part of April, in the year 1367, and the Romans received him as the preserver of the city.

[*Latin ed. p. 451*]

MARSEILLES. The entire of Italia was in arms and divided by internal discord, and he began to strive for Italian peace. After entering the Vatican, he received Charles IV, the Roman Emperor, the Queen of Neapolis, and the King of Cyprus, who came to him. He solemnly crowned the Empress of Germaniae at St. Peter's; he reconciled Ioannes Paleologus, the Greek Emperor, to the Church; he added Elaiarum de Sábano to the College of Saints, and he performed many other acts in Rome for the good of the entire Church. But, as war raged between Charles V and Edward III, the Kings of Galliam and Angliae, the Pope returned to Galliam in the year 1370, for the cause of peace, and was seized by illness, and died on December 19th of the same year, in the ninth year of his pontificate. He was buried in the larger church of Avenionensi, and later transferred to the monastery of St. Viator in Massiliensis, where, as his biographer wrote, "he had chosen his eternal burial place while living, and it shone with great and wondrous miracles" (1).

ON THE PUBLIC CULT OF URBAN V

After briefly outlining the life of Urban V, the orator, for the purpose in

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question, presented many documents, demonstrating that the public cult of Urban V existed from his death until the beginning of the 16th century, when the pontificate of Urban VIII began. We will only mention a few of these documents. His contemporary biographer left the following written:

"In the year of Our Lord 1380 (Urban V) departed to the Lord, and his body was placed in the chapel of Ioannes XXII, which is in the chapel of B. Mariae de Domnis, and there it remained until the last day of May in the year 1372, when God worked many miracles for those who devoutly invoked him. And on that day, his bones were transferred with an unforgettable multitude of people praising God for all that they had heard about him, to the monastery of S. Victoris in Massiliensis, of which he had previously been the Abbot; through whom God performed many miracles, as testified by countless images." (1)

(1) Consult the works: From the lives of Urban V, written by contemporary authors from the oldest manuscripts, published by Stephano Balutio in the book "Lives of the Popes of Avenionensi," Collection of Historical Writings, author Lud. Muratori, volume III, page 2. Petrarca, Epistles, "Rerum senilium," 1, 7. Lud. Muratori in his Annals, year 1363 and following.

[*Latin ed. p. 452*]

452. MASSILIEN. "Relics are attached before the tomb, and as if throughout the entire church, those of the 'monastery' are carried, freed from various dangers and infirmities, to the invocation of his name. Scarcely is there a church in the world, in solemn places, which does not have his image depicted and honored with vigils and offerings." The same are found in the very ancient Vatican Codex 4026: "While the aforementioned body rested in the aforementioned church of the Blessed Virgin Mary of the Lords, people from all parts of the land flocked there, seeking benefits received through the intercession of the same Lord Urban, bringing offerings, namely in wax, images of the pagans..." The people flocked so greatly and in such numbers that it was barely possible to carry the body itself... and those same people, out of devotion, took the entire red cloth with which the said litter was covered, placing it in a chest for the relics, out of devotion to the very body itself." His image and images (as the Vatican account adds) "were and are painted, and are painted day by day, and thus painted, they are honorably and openly honored with devotion and reverence, just as the images of other Saints, and to those, there has been and is a public, open, and well-known gathering of devotion, and various offerings are made... all and each of the aforementioned things were manifest and well-known to the Most Reverend [Gregory XI]." Petrarch, the classic poet, who, having held office among the Romans under Urban, left a written account of Urban's return to the city in Italy, stating: "The fame of his sanctity is now celebrated most highly and with miracles." But the miracles which God wrought through him were so

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many and so great that notaries were stationed at his tomb to record them in a legitimate manner. From these miracles, his sanctity was proclaimed, and altars and chapels were erected in his honor. It is astonishing how great was the gathering of the faithful to his tomb, of which many ancient documents unanimously testify: pilgrims of any dignity and condition came to it, not only from all of France, but from Belgium, from Germany, from Italy, from Hungary, from Greece, from Spain. But as I must pass over the rest for brevity's sake, from a parchment codex of the Abbey of Montecassino, written at the end of the 15th century, in the catalog of the Pontiffs, Saint Urban V is mentioned. In the calendar of the manuscripts of the monastery of Saint Germain of Montpellier, in the 15th century...

[*Latin ed. p. 453*]

MASSILIA. The feast of Saint Urban, celebrated on the nineteenth of December, is placed among the festive days. We have an Antiphon, a Versicle, and a Prayer in honor of Saint Urban, taken from the Vatican Codex of the fifteenth century; in that codex, the Saint is consistently called "Beatus" (Blessed). Furthermore, other Prayers, Antiphons, and Sequences in his honor are taken from the Bollandist publications. Another Antiphon, Versicle, and Prayer are found in the manuscripts of the library of Aix. Omitting the rest, the following, worthy of note, are read in the history of Bologna, and in the Muratorian Collection: "This Blessed Pope performed great miracles in Avignon after his death; in Bologna, it was begun to depict him in the churches." During the time of Branci Sacchetti, who lived at the end of the fourteenth century, many images of Urban V were found in the churches of Italy, as can be seen from his Chronicles and Letters. At the beginning of the fifteenth century, in the year 1405, King Lewis II of Sicily said, "Out of reverence (these are the King's words) for the Blessed Urban, Pope V... we give one silver lamp with our arms, which must be placed in the choir of the church of that monastery, before the tomb or monument of the aforementioned Blessed Urban, and remain there perpetually, for our perpetual memory." In the praised Vatican Codex, which, as is said, was written in the fifteenth century, concerning the order of the solemnity of the Nativity of Blessed Urban V, which is celebrated on the fourteenth day before January, the following is read: "It is read in it... in 'sounding the bells, according to that: 'Praise the Lord with trumpets, well sounded...' the bells will be rung 'in the manner of a great solemnity...' Then... a solemn procession will begin to be made through the cloister, as is done on the holy day of Pentecost, 'with the Office of that day.' Finally, after the procession, a solemn Mass of the Holy Spirit will begin... after the offering, there will be a sermon 'to the people by an eloquent preacher, who will explain to the people the illustrious life with the glorious miracles of Blessed Urban, 'so that the faithful may be encouraged to greater devotion to the Catholic faith and to Saint Urban.'" In the ancient Missal, preserved in the Imperial

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Library of Paris, there are two feast days in honor of Blessed Urban V, the Translation and the Nativity. The aforementioned public cult was demonstrated from the sixteenth century, from the time of Urban VIII, until the middle of the seventeenth century. These things we have mentioned. In the Theological Commentary on the certainty of the glory of the Canonized Saints, by Lucca...

[*Latin ed. p. 454*]

454. MARSEILLES. In a document from the Procurator General of the Order of Preachers, addressed to Pope Urban V, it is written: "Saint Urban V, a monk of Cluny, was solemnly canonized." At that time, in Rome, there was an ancient image of Blessed Urban V in the church of Saint Savior, located beyond the Tiber. Around the head of the image, Gothic characters were inscribed, reading: "Blessed Urban, Pope V." This image held small statues of the Saints, the Apostles Peter and Paul, whose heads Urban V had solemnly placed in the Lateran Basilica. Furthermore, the author endeavored to demonstrate the public veneration of Urban V through constant invocations of the Saint or Blessed, through images that were held in veneration, especially in Rome, and through offices celebrated in various churches. Indeed, such veneration was so great that, even in the 17th century, it was said to have been solemnly intended to be canonized, were it not for the schism that arose: as Antonius Rufi wrote in the history of the city of Marseilles in the year 1696: "The schisms by which the Church was afflicted at that time, due to the election of Clement VII (that is, Robert of Geneva, elected in 1378), prevented its execution." In the 18th century, many documents and monuments also attest to the continuation of this veneration. And among others, in the year 1726, we have the following recorded by Franciscus Pagius: "Even today, on the anniversary of the death of this Pope, the 19th day of December, the monks of Marseilles solemnly celebrate Mass for the Holy Spirit, as on the feast of Pentecost, with the Gloria, Creed, and Preface, with the priest and ministers wearing the sacred vestments that the same Pope had donated to the monastery, and the tomb of the Pope is decorated with a great quantity of lights." Benedict XIV, in his work on the Canonization of Saints, wrote: "Some vestiges of public veneration for Urban V still exist in the church of Saint Victor in Marseilles." And other documents have been presented, which show that, until the year 1789, solemnities were celebrated in that church of Saint Victor in honor of Urban V, as if he had been canonized. In the following age, the veneration of Urban V could not but be undermined, since the very worship of God was also overthrown by the impious, and in its place, the goddess Reason was substituted: nevertheless, the author demonstrates, through numerous documents, that Urban V has continued to be called a Saint, and to be

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regarded as a Saint.

[*Latin ed. p. 455*]

MARSEILLES. 455. Synopsis controversiae. OBSERVATIONS DU R. P. DÉFENSEUR DE LA FOI. Puisque cette cause a été la première à être traitée, après la publication du décret du 10 décembre 1868, conformément à ce même décret : il a été établi qu'à l'avenir, aucune affaire ne devrait aboutir à l'approbation, sauf si une procédure particulière n'y précède : le Défenseur de la Foi a dû reconnaître que l'enquête menée dans cette affaire avait été menée conformément aux règles de droit et en vertu des décrets des Souverains Pontifes. En effet, dans cette procédure, la diligence de l'Évêque de Marseilles et du juge par lui délégué a tellement brillé dans l'examen de documents presque innombrables, et dans la conduite de la procédure et la prononciation du jugement, qu'ils n'ont pas seulement rien laissé à désirer, mais ils ont également mis en lumière la cause, qui était brillante, mais abandonnée dans l'obscurité par l'injustice du temps et l'oubli des hommes. Cependant, le Défenseur de la Foi a fait deux observations principales, la première étant : que, sous le règne de Clément X, par ordre de ce même Pontife, il avait été soigneusement recherché qui étaient les Pontifes qui jouissaient d'un culte public, afin que leurs offices avec les lectures propres leur soient accordés dans l'Église du Latran ; ainsi l'a écrit Benoît XIV, dans *Miscellanea SS. Rituum*, c. 12, § 5. Et qu'à cette époque, aucun mot n'avait été dit concernant Urbain V, et qu'il serait donc très difficile de soutenir, comme l'a écrit le même Benoît XIV dans l'œuvre citée, concernant un cas similaire, que cela s'applique à Nicolas IV. Deuxièmement, il a observé que le culte qui autrefois existait avait complètement cessé à l'âge présent ; et qu'il ne peut être admis ni reconnu, à moins qu'il ne soit présent. Benoît XIV, concernant la continuation du culte envers Urbain V, a écrit : « Quelques vestiges même du culte public envers Urbain subsistent encore dans l'église Saint-Victor de Marseilles. » À partir de cette affirmation de Benoît XIV, le Défenseur de la Foi a cherché à démontrer que le culte public avait complètement cessé ; et qu'il ne peut être affirmé que des signes de culte public existent dans la cause que nous traitons, à partir de vieux documents dans lesquels Urbain est appelé Bienheureux ou Saint, ou des images dans des temples presque consumés ou détruits ; et des choses similaires, qui ne sont en réalité rien d'autre que quelques vestiges d'un culte public autrefois rendu, et qui ont peu à peu complètement cessé.

[*Latin ed. p. 456*]

456 MARSEILLES. He finally observed that, at least in the Lateran Basilica, where Urban had reposed the relics of SS. Peter and Paul with solemn ceremony (a practice indeed adopted by the ancients as a mark of that Pontiff), a particular reverence was due; but, on the contrary, this had oc-

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curred. RESPONSES OF THE ORATOR. Regarding the first observation, the Orator replied that his conjectures were not unfounded. As for why Urban had been overlooked during the time of Clement X, it was not his place to say; for there could be many reasons for this omission; perhaps the circumstances of the time had prevented it; perhaps the documents that today have been brought forth by the Bishop of Marseilles were unknown to those inquisitors of that time. Furthermore, it was demonstrated that public veneration had been duly paid to Urban with valid arguments in the present case. Regarding the second observation, he replied that the meaning of the "traces" mentioned by Benedict XIV could be understood from the context; for the "traces" were called the very documents and monuments that demonstrated the existence of public veneration (1). (1) It is fitting to quote the exact words of Benedict XIV, which resolve the difficulty as to why Urban V, whose cult is attested by so many ancient monuments, was not canonized according to the methods of that time by a formal judgment of the Holy See. These are found in his work, *De canonizatione Sanctorum*, I, 1, chapter 11, paragraph 22: "The images of the Saints Leo the Great, Gregory the Great, Gelasius II, Paschal II, Urban II, Alexander II, Gregory VII, and Victor III were depicted, and partly still are, with a circular diadem, which is undoubtedly a sign of sanctity and ecclesiastical veneration. Torrigius also recounts that for Urban V, this circle was painted on the head of some celebrated person, as can be seen today in the image of Pope Urban V in S. Francesco a Ripa, and formerly in S. Crisogono, above the tomb of the Cardinal of Crema, with the inscription: "Beatissimus Papa Urbanus Quintus." The same can be seen in S. Salvatore de Curte, where the aforementioned Urban holds before his chest the images of the heads of the Saints Peter and Paul, because he placed them in the ciborium of the Lateran church. Regarding the Pontiff Urban, it is read that after the translation of his body from the church of Avignon, where he had been first buried, to the monastery of S. Victor in Marseilles, of which the abbot had been, and where he himself had chosen his burial place, God was so pleased to work so many and such great miracles through his intercession, that a dispute arose between the abbot and the sacristan as to whether the offerings made on that occasion belonged to one or the other; this matter was settled in the year 1374 by an agreement; in which it was stipulated that certain revenues should be assigned to the sacristan; but the offerings of wax, gold, and silver belonged to the abbot and the monastery. Furthermore, the writers speak extensively of

[*Latin ed. p. 457*]

MARSEILLES. 457 Indeed, vestiges remain which were called, as Pagius the Younger wrote in volume 4 of the *Breviarium Bomb. Pont.*, with these words: "Even today, on the day of the death of that Pontiff, etc." These words I have already mentioned above. And it is affirmed that the same

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[Urban V] maintained a splendid and flourishing cult in that church until the year 1789: and this is demonstrated by public documents. Furthermore, it was customary to sing the Mass for the Dead in his place, and the Mass of the Holy Spirit, as if he were being canonized; and it is said that many lamps were continuously lit above his tomb, which had been raised from the ground; and that his relics were displayed among the relics of the Saints. Moreover, in the aforementioned work on Canonization, volume 3, part 1, chapter 11, the following is also found: "lamps and lights lit at the tombs of the Servants of God, and votive tablets, and the omission of certain prayers for the suffrage of the same Servants of God on the day of their death or anniversaries, and the singing of the Mass of the Holy Trinity or of Eternal Wisdom, the elevation of the tomb, the exposition of the bodies or relics of the Servants of God for public veneration, etc., signify public cult." Regarding the time that followed, the Orator presented many witnesses who, under oath, testified not only that they had knowledge of his sanctity and miracles, but also that King Waldemar of Denmark had implored Gregory XI to include him in the list of Saints; for by that time, the custom of obtaining formal canonization from the Supreme Pontiff through a definitive judgment had already become established. Furthermore, Charles, King of France, and Lewis, King of Sicily, sent Peter Olivarius, a Canon of Acqui, as their procurator to Robert of Geneva, who was in obedience to Clement VII in Avignon, so that he might obtain the solemn canonization of Urban; who, although it is said that Pagius and others responded that, given the long schism, it was not permissible for him to undertake such a holy and pious work at that time, nevertheless, in order not to omit anything that was customary among legitimate Pontiffs, he gave letters to several prelates in his obedience, so that, by Apostolic authority, they would confirm the process concerning the virtues and miracles of Urban V, among which were mentioned some resurrections of the dead, as can be gathered from the letters of that pseudo-pontiff; which, although they did not achieve the desired result, are said to have been of great benefit in proclaiming the fame of Urban's virtues and miracles, as testified by Raynaldus in the year of Christ 1381, number 4, where he quotes those same letters. Sorusinus also, in his treatise on the chapters of the Holy Apostles Peter and Paul, presents some things taken from the process made concerning the canonization of this Pontiff, which he states is preserved in the library of the Vatican. Finally, some vestiges of public cult towards Urban still exist in the church of Saint Victor in Marseilles, as is fully gathered from his life, which was described by Pagius the Younger in volume 4 of the *Breviarium Bomb. Pont.*, to which Spondanus adds in the continuation of the annals of Cardinal Baronius, in the year of Christ 1370, number 5.

[*Latin ed. p. 458*]

458. MARSEILLES. And to have Urban as a Saint, but to have received

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this from their ancestors. But why was Urban V not venerated as a Saint in the Patriarchal Basilica of the Lateran Palace? This only shows that the cult was not present in that church, and nothing more: the cult should have been offered in Gaul, and especially in Marseilles, where his miracles were especially celebrated, and where his tomb was located. For he had grieved over the translation of the See to Rome, and still almost in the forums of the people, his lamentations were heard, which gave rise to a long schism, when in the conclave in which Urban VI was elected, the cry was heard - "Romano volemo, Romano" - as Muratori recounts in the year 1378. After these matters have been thoroughly examined and discussed, the following question is to be resolved: "Whether the opinion given by the Bishop of Marseilles concerning the cult rendered to the aforementioned servant of God from 'time immemorial' in the case excepted from the Decrees of Pope Urban VIII, should be confirmed in this case and for the purpose in question."

RESOLUTION. The Holy Congregation of Sacred Rites, having heard the arguments presented in the meetings held on March 5, 1870, decided to respond: Affirmatively. And accordingly, having obtained the confirmation of the Most Holy Father, the Decree was publicly promulgated, which is set forth below.

FROM WHICH ONE MAY GATHER:

I. That the causes for the canonization of servants of God, which, due to their antiquity, were not included under the form of Decrees of Urban VIII, can be confirmed by a formal judgment through the simple recognition of public cult.

II. That public cult, with regard to its extent, can be considered to have two limits: a) a cult rendered in a particular church only; b) a cult rendered in the entire Church.

III. In the recognition of the first cult, in order that the recognition may be useful at least, it is necessary that, in the particular church, the cult which has existed from ancient times, still persevere.

IV. That such perseverance should not be considered interrupted by illegitimate obstacles which have hindered and suspended the celebration of the cult.

V. In the recognition of the second cult, it is not necessary to show that the celebration of the cult has persevered: since that Saint is certainly...

[*Latin ed. p. 459*]

MARSEILLES. 459. It should be considered that, in the entire Church, someone may have been honored at some time, even if only vestiges of this honor remain (1). VI. It is desired that both authentic recognitions of cult be established to permit the celebration of the Office and the Mass

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in places where the cult is practiced, or where it is desired to be established; therefore, these decrees of recognition will produce almost the same liturgical effects as the decrees of Beatification (2). VII. In the present case, the celebration of the cult of Urban V, which was observed in the Diocese of Marseilles, especially until the year 1789, and which ceased for an illegitimate and violent reason, is to be considered. Furthermore, this same cult was once publicly and openly practiced throughout a large part of the Latin Church, for a most splendid reason, by which he was universally considered and celebrated as a Saint. VIII. Therefore, the cult of Urban V not only enjoys the clear support of the Church of Marseilles, but also the support of the Latin Church, which, by reason of the Primacy of the Roman Pontiff, is equivalent to the judgment of the entire Church. DECREE REGARDING THE EXAMINATION OF THE CAUSE OF URBAN V. "Urban, of this name, the Fifth, was born of a noble Gallic family, the Grimoards, and came into the world in the village of Grisiac, in the Diocese of Mende. He passed his youth innocently, and, still in the bloom of youth, he adopted the monastic habit, and at Marseilles, he pronounced his vows in the Monastery of Saint Victor, of the Order of Saint Benedict. He devoted himself so diligently to the disciplines of Theology and Canon Law, that he was declared a Doctor and, for many years, he completed his studies in Canon Law with the highest praise in Toulouse, Paris, Avignon, and in the mountain of Pessulano. (t) The reason is that what is established by the entire Church concerning Canonization; although it does not carry with it the same liturgical effects as a formal decree, it cannot be considered erroneous: and this judgment of the entire Church in some way signifies... (2) Compare the most recent case of Blessed Juliana Cornelionensis, which I have explained on page 49 and following.

[*Latin ed. p. 460*]

460 A decree from Clement VI, of blessed memory. The Abbot of Saint Germain of Auxerre was appointed, and afterwards by Innocent VI, of blessed memory, to govern the monks of Saint Victor in Marseilles; both of them distinguished their ascetical lives by outstanding virtues; and in the meantime, he carried out legations for several important affairs of the Church throughout Italy. When Innocent VI passed away, the elected Supreme Pontiff was solemnly consecrated and crowned in Avignon. At the very beginning of his pontificate, he diligently devoted himself to reforming morals, to spreading the Catholic faith among the nations, and to restoring the Apostolic See to the City [of Rome]. Therefore, he gave an example of good works in doctrine, in integrity, and in gravity. He took care of all the poor, especially those who had previously been wealthy but were now reduced to poverty and ashamed to beg. He denied any advantage to his relatives. He was very strict in the discipline of the clergy, and he curbed the greed of some clerics who sought to obtain many benefices

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with a salutary constitution. He so fostered letters and the sciences that, at his own expense, he provided food and books to nearly a thousand young people of various kinds who were engaged in studies in the academies. He vigorously defended the freedom and rights of the Church; and he almost recovered the civil principate of the Apostolic See, which had been overthrown by the actions of Cardinal Albornoz of Aegydii, from the hands of the subverters, and restored it. He proclaimed a holy war against the infidels, and he presented the banner of the Cross to the kings of France and Cyprus, who conquered Alexandria in Egypt. He promoted Apostolic missions among heretics and schismatics. As he had promised, he restored the beloved City [of Rome] to great joy of its citizens, and he accomplished there many things worthy of remembrance. He lavishly restored the most holy Lateran Church, the Vatican of Saint Peter, and the Basilica of Saint Paul in Ostia. In the chapel of Saint Lawrence, which is located in the Patriarchal Palace, he recognized the sacred relics of the holy Apostles Peter and Paul, which had been removed from the former Archbasilica of the Lateran due to a fire, and he solemnly showed them to the Roman people. Soon afterwards, he covered the most beautiful altar of the same Archbasilica with a tabernacle, and on the top of the tabernacle, he prepared a small chamber with exquisite craftsmanship, and within it, he placed the relics of the same Apostles in golden reliquaries, with their protomes, and distinguished them with precious gems. Finally, he departed from the City, but with the intention of returning there again, and he went to Avignon, in order to wage war, which was taking place between the kings of France and England.

[*Latin ed. p. 461*]

Decree 461, having been consumed by a deadly illness, desired to be provided with the sacraments of the Church. These were devoutly administered to him, and he met the precious death of the Just on the fourteenth day before the Kalends of January, in the year 1670, in the ninth year of his pontificate. After his death, it is said that many clear signs manifested, especially in the church of Saint Victor in Marseilles, where he had previously prepared his own tomb.

When the Archbishop of Marseilles sought to demonstrate, through the aid of monuments, that from time immemorial, and long before the time of Pope Urban VIII, public and ecclesiastical veneration had been paid to this Servant of God, he duly conducted an inquiry on this matter, following the decree of the Congregation of Sacred Rites (1), and pronounced a judgment. This judgment was then submitted to the Congregation of Sacred Rites, along with the records of the inquiry, requesting that the Sacred Congregation confirm the judgment. At the same time, many other prelates from Gaul and Italy urged this in their letters. Therefore, all of these efforts resulted in the following question being proposed at the Or-

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dinary Meetings of the Sacred Rites held today in the Vatican Palace, by the Most Eminent and Reverend Cardinal John Baptist Pitra, the Relator of this Cause: "Whether the judgment pronounced by the Archbishop of Marseilles concerning the veneration paid to this Servant of God from time immemorial, should be confirmed in this case and for the purpose in question?"

Furthermore, the Most Eminent and Reverend Fathers entrusted with the safeguarding of the Sacred Rites, after a careful examination of all the monuments, and after hearing the voice and writings of the Reverend Father Dominic Minetti, Promoter of the Holy Office, regarding the question proposed, judged: Affirmative, that is, the judgment should be confirmed. On March 5, 1870.

"After these matters were faithfully reported to the Most Holy Lord Pope Pius IX through a report from the Substitute of the Congregation of Sacred Rites, His Holiness considered the Rescript of the Sacred Congregation to be entirely valid and confirmed it, on the 10th day of the same month and year."

C. Episc. Port., and S. Rufinae, Cardinal PATRIZI, S. R. C., Prefect.

Dominicus Rartolini, S. R.

(1) This Decree was explained in Volume IV, page 329.

G. Secretarius.

[*Latin ed. p. 462*]

FROM, THE CONGREGATION OF THE COUNCIL OF TRENT, INTERPRETATION OF THE DECREE of June 26, 1869, and February 19, 1870. Summary of the case. In the cathedral church of N., there exists a Priory: which, according to the capitular constitutions, must be held by someone who is obligated for a long time to perform these duties, "besides the obligation common to all Canons of participating in the sacred functions of the choir... the Prior must celebrate the first and second Vespers, and sing Mass on the Feast of the Epiphany, the Paschal Resurrection, the Ascension, etc. When the Priory is vacant, these same obligations pertain to the senior Canon; but when the Priory is not vacant, but the Prior is hindered, these obligations pertain equally to the senior Canon, so that, nevertheless, the senior Canon receives the customary alms of ten obols, since it is the burden of the Priory office, which the Prior enjoys." The Prior of N. requested an indult of dispensation; the Bishop and the Chapter both granted this request; but the Chapter added the condition that he should fulfill the duties pertaining to the Priory according to the capitular constitutions, and he obtained the customary decree on January 7, 1867, so that, although he may not serve as an Orator in the future, he may nevertheless receive all the fruits and daily distributions of his Canonry, as if he were personally present in the choir and at the divine offices. This decree did not please

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the Canons, and they offered prayers that it might be limited by the Holy Congregation, or at least declared invalid. The true response was: "Let the decree of January 7, 1867, be observed in its form and tenor." From this arose a controversy between the Indultary and the Canons, because the Prior said that, by virtue of the decree, he was not bound to perform those sacred duties pertaining to the Priory; on the other hand, the senior Canon said that he was bound only according to the capitular constitutions: and therefore, since neither the Priory office was vacant, nor was the Prior hindered, those duties did not pertain to him. The other Canons, in the same way, refused to perform those duties.

[*Latin ed. p. 463*]

DECLARATIONIS RESCRIPTI 463. Wherefore, the Canons again supplicated the Holy Congregation, that it would deign to resolve the doubts which we set forth below. OBSERVATIONS FROM THE OFFICE. It has been observed that in the written law, there is no canonical provision by which the privilege of dispensation is granted; but this privilege is introduced by reason, following the example of the Priests of the Old Law, Numbers 8, 25 and 26, or even following the example of veteran soldiers, who, having been released from the burden of military service after long service, retained the benefits of military service, I. A. muneribus; and excused, I. 1. C. de Veter. Furthermore, the Indult of dispensation carries with it the faculty that the person granted the dispensation may receive all fruits and distributions, and also emoluments of anniversaries, which are made annually, unless the testators state otherwise, as in Novarien, on the 29th of November, 1681, in Lünen, Sarzanen, on the 30th of April, 1684; indeed, even crutches, which are commonly called "falentiae," as in Reatina, on the 19th of April, 1692, and in Aquipendien, on the 23rd of March, 1697. Nevertheless, such a dispensation is exempt from all canonical burdens and functions, so that neither it nor another is bound to fulfill them, as the Holy Congregation responded in the aforementioned Aquipendien, and in Senen, on the 12th of May, 1759, concerning the Mass, especially the conventual Mass. Furthermore, it is not to be held that a dispensation of this kind is to be granted for residence, as in Sancti Angeli in Vado, on the 15th of April, 1690, in Patavina, on the 9th of June, 1714, and in Dubiis iubilationum, on the 17th of December, 1718, to V. Furthermore, special reasons were presented, in which the Chapter had imposed conditions for various additions, as in Bergomen, on the 8th of August, 1716. For in the year 1716, Martin Anthony Guerrinus, a Canon and subdeacon, had requested a dispensation, having begun his service as a Coadjutor from the year 1675; after the Coadjutor had died in the year 1684, he continued his entire service as principal until the month of October, 1705, from which time, due to habitual infirmities recognized by the Ordinary, he had obtained from the Holy Congregation each year a dispensation from service

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in the choir for the hours of Matins and Prime. The Bishop, having heard the Chapter, reported that the Advocate had stated that the Chapter had agreed to granting the grace of dispensation, but with this limitation: that the exemption granted by the dispensation should not be understood as an exemption from the solemn subdiaconal functions which, in turn, pertained to him; and the Bishop also considered that the Advocate deserved the grace requested: especially because...

[*Latin ed. p. 464*]

464 For the sake of the record, it should be noted that the choir and Chapter of the church did not reside there, although three Dignitaries and forty-one Canons resided there, and eleven Canons ministered in subdiaconal functions. The reason for this is: "Whether an Indult of Jubilation should be granted in this case?" The response was: "Affirmatively, with the required consent." In the case of Civita Castellana, on November 29, 1776, a Canon had requested a perpetual vacation from the choir after forty years of commendable service; however, the Chapter, in granting consent, imposed the condition that he remain obligated to perform his weekly duties as other Canons do. The question posed was: "Whether and how an Indult of Jubilation should be granted in this case?" The response was: "Affirmatively, subject to the aforementioned conditions." Regarding the obligations attached to the dignity obtained by a Canon to whom an Indult of Jubilation was granted, the following resolutions were presented: In Fulginata, on November 22, 1619, it was stated: "John Baptist de Justus, Canon and Dean, having rendered forty years of service and more to the cathedral church, obtained a Jubilation; recently, however, having been granted a new Jubilation by the Most Reverend Chapter of the same cathedral, he requests that either a new Jubilation be granted to him, or rather, that it be declared that the same Jubilation benefits him with respect to the Chapter." The Sacred Congregation, having heard the report of the Bishop of Fulginata, and considering the forty years of service and more, commendably and continuously rendered in the same cathedral, judged that the petitioner did not require a new Jubilation, but that the Jubilation already obtained on December 18, 1618, should also benefit him with respect to the Chapter, of which he had recently been provided for in all things, preserving the form of the same Indult. Furthermore, the case of Siena, on March 16, 1726, was presented, in which the question posed was: "Whether the Indult of Jubilation granted to Fabio Baldi, formerly a Canon of the Metropolitan Church of Siena, should also benefit him after he obtained the dignity of Dean in the same church?" The response was: "Affirmatively, provided that he serves in the more solemn occasions." Question I: "To whom does the obligation belong to sing the Vespers and to perform the other sacred

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functions during the more solemn festivals of the year in this case?"

[*Latin ed. p. 465*]

465. DECLARATIONIS RESCRIPTI: "Et, in quantum hoc ad Priorem jubilato spectat. II. "Num ipse tenetur ministrare eleemosynas illis Canonicis, qui post obtentum indultum jubilati loco et vice ipsius Missas celebraverunt in casu?", RESPONSIO. Sacra Congregatio, cognita causa die 26 Iunii 1869, distulit Resolutionem respondens: "Dilata, et exquirantur pleniores informationes." Novae habitae informationes hae sunt: "Prior ecclesiae cathedralis nullum habet redditum certum nec participationem maiorem incertarum, quam alii Canonici, uti ex documento Secretarii capitularis patet. Quando vacat Prioratus, Canonicus senior eleemosynam duorum iuliorum accipit a Canonico, qui administrat bona praebendae prioralis etc." Hisce ab Episcopo habitis, propositisque iterum dubitandi formulis modo expositis, Sacra Congregatio die 19 Februarii 1870 respondit. Ad I. Quatenus Prior jubilatus nolit per se has functiones peragere, onus, de quo in casu, incumbere Canonico Decano, eoque impedito, seniori ex Canonicis, desumpta pro Missa eleemosyna Praebenda priorati. Ad II. Provisum in primo.

EX QUIBUS COLLIGES:

I. Indultum jubilati rationem habere remunerationis.

II. Inde huius indulti verba potentissima esse nec limitationes facile accipere, ut accipere solent cetera consueta indulta, quae ad consequentias trahi non possunt.

III. Quare Capitularem, Indulto jubilati donatum, ius habere ad percipiendos omnes suae Praebendae fructus, distributiones omnes, praeter eas, quibus resistat lex aliqua, quae vinci sine aliqua iniustitiae umbra non posset.

IV. Itemque eundem solvi a lege residendi interveniendique choro, atque ab omnibus choralibus officiis, quaecumque ea sint.

V. Posse tamen dari adiuncta, in quibus iubilationis indultum non plenam habeat rationem remunerationis, atque aliquas limitationes proinde accipere.

VI. In praesenti themate, quamvis indultum plenam rationem remunerationis haberet, attamen, ex propria indultarii praebenda Missae eleemosynam desumendam declaratum esse, quae non ex alio fonte, sine aliqua iniustitiae umbra, desumi potuisset. Acta, tomo V, fase. LVI 30.

[*Latin ed. p. 466*]

LETTERS FROM THE APOSTOLIC SEE CONCERNING THE REPRESSION OF CERTAIN HERETICAL AND SEDITIONARY PRACTICES. To the Venerable Brother Anthony Joseph, Archbishop of Thyateira, and Our

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Apostolic Delegate to this Apostolic See in the City of Constantinople. To the Venerable Brother, PIUS PP. IX, Apostolic Greetings and Benediction.

"It is with very grave sorrow, or rather, with profound grief, that We have learned that the Armenian Church of Constantinople is lamentably afflicted by serious dissensions and disturbances, and that peace, which We, along with Our Predecessors, have always diligently sought to maintain for the benefit of that Church, is almost entirely absent from it. Indeed, certain individuals from the laity, acting in concert with some members of the secular clergy and monks of the Armenian rite, have openly scorned and denied the authority of the Most Reverend Father Anthony, Patriarch of Cilicia; and the Most Reverend Father Joseph Arakial, Bishop of Ancyra, who, with Our consent, exercises the vicariate with power in the aforementioned city, has so disregarded the canonical jurisdiction that he has dared to refuse to accept or obey the sentences and mandates thereof. They have gone so far as to cast doubt upon the legitimate election of the aforementioned Patriarch, although it was carried out with the unanimous consent of the bishops and confirmed by Our judgment and authority; they have dared to omit the solemn commemoration of his election in the holy sacrifice of the Mass and in the divine offices, and finally, they have even dared to erect an altar in a private house, contrary to the legitimate altar of Christ, and to establish a church there, which they call, with a most egregious contradiction of terms, an "independent Armenian Catholic" church; as if it were permissible for the faithful to live according to their own judgment within the Catholic Church, and not rather to obey and submit to their superiors, as the Apostle commands.

"These actions are, indeed, most reprehensible, and they are all the more grievous to Us because they are committed by Armenians."

[*Latin ed. p. 467*]

APOSTOLIC LETTERS: We have learned, especially concerning those dwelling in Constantinople, that you are experiencing difficulties, for whom the Apostolic See has always shown singular care and concern. Neither have the expressions of reverence and obedience towards this most holy See of Peter, which we have observed in the representations made to Us by the aforementioned laymen, clerics, and monks, been sufficient to alleviate the bitterness of Our sorrow; and these expressions appeared to be confirmed by that futile appellation, to which some resort in order to avoid the correction of the aforementioned Venerable Father Joseph. Indeed, against the authority of this Apostolic See, divinely established, erroneous and false doctrines and calumnies have been spread among the people, and the force and authority of Our constitutions themselves have been disrespected and disparaged. "Although We are deeply pained by these things, We cannot sufficiently commend the Armenian portion of that same city, which has remained steadfast in its duty and faith, and which

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has most closely and sincerely adhered to its legitimate Patriarch, and to this Our See, in order that it might be freed from such evils. "Desirous of fulfilling Our duty in this matter, We command you, Venerable Brother, who perform Our Apostolic Delegation in the city of Constantinople, that as soon as you return to that city, you strive with all your might to confirm the Eastern Catholics in their faith, and to bring back to the path of salvation those who have strayed from their duty. "In order that these things may be properly accomplished, it is necessary, Venerable Brother, that you remind and impress upon those entrusted to your care that it pertains to the Catholic faith that the Roman Pontiff, in Blessed Peter, has received from Our Lord Jesus Christ full power and authority to feed, govern, and guide the entire Church; and that the full and free exercise of this power cannot be circumscribed or restricted by any territorial or national limits; and that all who glory in the name of Catholic should not only communicate with him in matters of faith and dogma, but also be subject to him in matters of rites and discipline. "In this matter, do not fail to teach the Armenians and all others in the East the difference between discipline and rite, the confusion of which has perverted the minds of those faithful.

[*Latin ed. p. 468*]

468 APOSTOLIC LETTERS continue to cause disturbance, providing a constant opportunity for unjust complaints, and those who most fear hindering or diminishing the salutary action and power of the same See in the Eastern Churches are the ones who most readily exploit this. Indeed, We, together with Our Predecessors, have declared that the rites of the East are to be preserved, as long as they do not contradict the faith and Catholic unity, nor do they detract from ecclesiastical propriety. This, of course, does not prevent, especially in matters concerning ecclesiastical governance, the canonical discipline from adhering everywhere in at least the most important respects, and where it has been overturned or collapsed, it must be restored. And We shall never deviate from this, as Our Apostolic ministry entirely demands. And for this reason, We promulgated Our Constitution, *Reversurus*, on July 14th, 1857, which We intend to maintain in full force, and to be diligently observed by all to whom it applies; for nothing is more suitable for defending ecclesiastical liberty, for vindicating the rights, authority, and dignity of the sacred prelates, and for preserving the Catholic religion and unity more and more. "But those who deny or disregard the rights and offices of the Apostolic See, how can they then claim to show reverence and obedience towards it? This, indeed, seemed to be the case with certain complaints made by some Armenians, in which they also requested that the Armenians, while preserving their rites, be completely subjected to the jurisdiction of the Apostolic Delegate, until the Most Reverend Brother Anthony Peter IX remained in office as

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Patriarch. We considered this to be entirely unacceptable, also because it was manifestly devised to undermine the legitimate authority of the same See. "Moreover, it is more serious to abuse the authority of the Apostolic See in order to avoid correction from the prelates. For it is a sacred and time-honored right, and held in honor, to appeal to the Roman Pontiff, to whom divine power has been granted to dissolve the judgments of any judge. But it is by no means permissible to use this as a pretext and to abuse it to defend disobedience, when, in fact, those who are subject to it improperly rush into the appeal against ecclesiastical discipline. As Our Predecessor Alexander III pointed out, the remedy of appeal was not invented so that anyone might, by appealing to the Roman Pontiff, escape from the bonds of

[*Latin ed. p. 469*]

APOSTOLIC LETTERS 469: The observance of the order must, in its weakness, receive support. And it is known to all that appeals in matters of correction and discipline are to be considered only in the devolutive jurisdiction, as they say. Those who presume to act otherwise are shown to be not so much sons of the Apostolic See as disturbers of the ecclesiastical order. "That this order may be preserved, from whose tranquility peace arises, it is necessary that each one most diligently take care to observe the conditions of his state, lest he transgress the ecclesiastical laws assigned to him. Therefore, priests ought to be entirely detached from worldly concerns, always devoted to divine ministrations and the salvation of souls, and to obey their bishops with due reverence. Monks also, who in their profession have renounced all worldly cares, ought entirely to live a tranquil and unblemished life in holy conversation, in the habit of their order, and in monasteries or hospices, and always to strive for the eternal salvation of themselves and their neighbors, observing the reverence and obedience due to their bishops. For this reason, salutary laws and instructions have long been issued by this Holy See for monks residing in Constantinople, the beginning of which is found in Complures (1), and it has been ascertained (2): if these had been observed, we would not be compelled to lament that some monks have strayed from the right path. Therefore, we strictly command that these instructions be observed by all to whom they pertain, and we impose upon you the duty that, for the sake of your office and authority, you diligently ensure their observance. "Finally, let the laity remain in their own sphere, and in no way interfere in ecclesiastical affairs. Their place in the Church is to be taught, not to teach; to be governed, not to govern; and nothing has ever been more harmful to the Church of God, and therefore more disapproved of by the Holy Fathers and by the Ecumenical Councils, than that the laity should insert themselves into ecclesiastical affairs, and intrude upon the ecclesiastical order. "These are the things, Venerable Brother, which we have deemed necessary to communicate and

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entrust to you; and that you may be able to carry them out more effectively, we grant you all the necessary and appropriate faculties in these Letters. (1) Instruction of the Holy Congregation of the Propagation of the Faith, 90, August 1842. (2) Decree of the Holy Congregation of the Propagation of the Faith, 20, August 1853.

[*Latin ed. p. 470*]

470 APOSTOLIC LETTERS: "Therefore, act, and relying on divine assistance, eagerly apply yourself to the work, and proceed swiftly to those whom We, though We cannot see them personally, have entrusted to you. For We trust that the Most Blessed Virgin, conceived without sin, and Saint Gregory, who was truly the Illuminator and Apostle of the Armenian people, will obtain all grace from Jesus Christ, our Lord, so that those who hope in Him may not be disappointed, and those who have lamented over so many evils may rejoice in the consolation of our children. And may this good, which we constantly implore with fervent prayers to God, be favored by all the heavenly powers, and as a pledge of Our special benevolence towards you, Venerable Brother, We impart, with all the affection of Our heart, the Apostolic Blessing to you, and to all the Clergy and Laity entrusted to your care. " Given at Rome, near Saint Peter, on the 24th day of February, in the 24th year of Our Pontificate. " PIUS, POPE IX. "i •KK-

[*Latin ed. p. 471*]

FROM THE ACTS OF THE OECUMENICAL COUNCIL OF THE VATICAN. After those things which we have recounted concerning the acts of the Vatican Council up to the Decree of February 20, 1870, which was published in the General Congregation on February 22, the General Congregations were suspended until March 18, 1870. But in the meantime, among the Fathers, private consultations and studies were held, and concerning the schema on the Church of Christ, which had already been distributed, a certain doubt arose regarding a specific time, which was resolved by the following document. NOTICE: "Since a doubt has arisen as to whether the observations to be written and submitted within ten days concerning the first ten chapters of the schema of the dogmatic constitution, On the Church of Christ, should also include the 13 preceding canons concerning the Church of Christ, which complete said ten chapters, it is therefore declared in express terms: The observations to be written and submitted within these ten days, the last of which will be March 4, must include not only the first ten chapters, but also the canons which pertain to the same doctrine (namely, canons 143 inclusive)." From the Secretariat of the Vatican Council, February 23, 1870. JOSEPH E P. S. HIPPOLYTI, Secretary of the Council. Since, from the beginning of the oecumenical Vatican Council, the votes of many had been expressed, so that in this Catholic synod the doctrine concerning the infallibility of the Roman Pontiff should be defined

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and sanctioned, a doctrine which the Catholic Church has always held and holds; and since numerous petitions have been presented, both by the faithful and by the Fathers themselves of the Council, although they were somewhat different, and indeed some...

[*Latin ed. p. 472*]

472. From the *Acta*, those matters which differ concerning the opportune moment for definition (i), Our Most Holy Lord, according to numerous Apostolic Letters, proposed to the Council the theme of defining this doctrine; and the formula of the definition was distributed to the Fathers on the day that the Catholic Church celebrates the feast of the Angelic Doctor, whose theological and philosophical doctrine has shone most brilliantly and continues to shine within the Catholic Church, which, perhaps, could be abandoned through ignorance of foreign opinions, but which cannot be obscured. With the formula thus distributed, the following warning was given. WARNING: "Since many Bishops have petitioned Our Most Holy Lord to propose the theme of the infallibility of the Roman Pontiff to the Council, and Our Most Holy Lord, with the advice of the special Congregation for receiving and considering the propositions of the Fathers (1), it is a most agreeable thing to consider in the very heart of the matter the books that are published, either against the infallibility of the Roman Pontiff, or against the opportune moment for definition, or in favor of infallibility; but it is a most tedious thing to patiently read what is contained in these books. For, if you consider these books themselves, they are the most valid argument for concluding that this doctrine of infallibility must necessarily be defined at the present time, since a certain question has been raised, causing much clamor; with the precision that this pertains to the merit of the same question. Unless, that is, you wish to say that the Vatican Council acted as Honorius acted, as is recorded in the *Acta* of the Council, who did not dismiss the question concerning one or two wills in Christ the Lord, as he ought to have done, according to his supreme and irreformable judgment; therefore, unless you wish to say that the Vatican Council is afflicted with the same fault regarding this arising question, as Honorius was; the question of infallibility will be settled. But if you read these books, you will find that the authors who contradict infallibility or the opportune moment for definition are often deficient in the laws of both logic and criticism, and that they object, and often with arguments much weaker than those that are commonly raised in public and private scholastic discussions, when a theological thesis on infallibility is proposed to young men: but the authors in favor of infallibility, if a few are excepted who seem to have been compelled by necessity to write certain things, say very little of all those things that have long been written by devoted Catholic authors against

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Gallican presumptions."

[*Latin ed. p. 473*]

473 The Fathers of the Vatican Council, having deigned to approve the aforementioned petition, have ordered that the formula for a new chapter concerning this matter be distributed for examination. This formula will be inserted after the eleventh chapter in the draft of the Dogmatic Constitution concerning the Church of Christ. Furthermore, the Most Reverend Fathers are reminded to submit, in writing to the Secretary of the Council, any observations they may have regarding this same eleventh chapter and the aforementioned formula, as well as concerning canons 14, 15, and 16, within ten days, namely from the eighth day of March up to and including the seventeenth day of March, in accordance with the Decree of February 20th of the preceding year. "From the Secretariat of the Vatican Council, March 6, 1870." JOSEPH E.P.S. HIPPOLYTI, Secretary of the Council.

The following is another Notice by which the General Congregations are opened, and the established method is put into practice.

NOTICE! M

"Attached to this Notice is the revised draft of the first Dogmatic Constitution, along with a report of what was deliberated concerning it in the special Deputation for matters pertaining to the faith. On Friday of this week, March 18th of the current month, at nine o'clock in the morning, the next General Congregation will be held, in which, according to item 7 of the Decree of February 20th of the preceding year, the revised draft will be discussed. Most Reverend Fathers who wish to request permission to speak on this draft will provide their names in writing to the Secretary, with a clear statement of whether they wish to speak about the entire draft in general, or about certain parts of it. The discussion will begin with a general discussion, and when this is concluded, the Preface will be discussed separately, and likewise each chapter separately, along with the canons that refer to each chapter, proceeding in order. "From the Secretariat of the Vatican Council, March 14, 1870." JOSEPH E.P.S. HIPPOLYTI, Secretary of the Council.

[*Latin ed. p. 474*]

474 FROM THE PROCEEDINGS: Therefore, the Congregations were instituted, and the opinions of all the Fathers were carefully considered regarding all matters that might admit of some doubt or could potentially give rise to doubt. The Synod began to demonstrate unity of voice and will, and votes were cast with eagerness: the observations of the Fathers who spoke were much briefer; indeed, the draft concerning the Catholic Faith was so reformed that, if one were to compare it with the published Decree,

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one would have to say that they were entirely different in form. Therefore, in the General Congregation held on March 18th, certain reports were read, delivered by the Judges of Appeal concerning ten petitions from Fathers who, alleging and proving canonical reasons, requested to be excused: and these were approved by the Synod by vote, and subsequently confirmed, as is customary, by the Most Holy Father. Then, a report was presented by order from the Council appointed by the Synod to deal with matters of faith, regarding the reform of the draft, and this report was delivered, as it is said, by the Archbishop of Cattolica, Primate of Hungary. Afterwards, three Fathers spoke about the entire draft. Finally, the death of Abbot Jerome De Zeidler, of the Praemonstratensis Congregation of Austro-Hungary, was announced by the senior President, who had passed away on the first of March, and the Congregation was closed, as the Most Holy Father descended into the Vatican Basilica for the customary visitation, which the Pontiff makes to the Most Holy Relics on the sixth day of March, in order to grant indulgences. The Fathers of the Council, accompanied by a large crowd, greeted him upon his arrival. On March 22nd, a Congregation was held, since it could not be held on the feast of Saint Joseph, nor on the subsequent days due to various impediments, and ten Fathers spoke about the reformed draft. In this Congregation, the same Archbishop of Cattolica, John Simor, is said to have briefly summarized the observations made regarding the proposed reform of the draft, and, acting on behalf of, or by virtue of his office as a member of the Council that reformed the draft, he responded to the observations made: and it is said that these responses and explanations satisfied the Fathers. This method, as we shall see, is maintained, whereby the Fathers of the appointed Council give an account of the reforms made or to be made, and the difficulties that arise are resolved, and, after votes are taken, with the Fathers standing or seated, it is determined by the most minute details what should be retained and what should be omitted, until, having arrived at the complete reformed draft, judgment is again passed on the entire draft by a vote.

[*Latin ed. p. 475*]

At the Vatican Council, on March 23rd, after a meeting, six Fathers delivered speeches concerning the introduction of the reformed schema; then, seven spoke about the first chapter. On the 24th, eight Fathers spoke first, after which the discussion on the first chapter of the reformed schema was concluded; then, four; and finally, Archbishop Emmanuel Garzia Gii is said to have made some observations in his official capacity. Certain writings were then printed with the new observations made, so that the Fathers could conveniently receive them in the subsequent meetings to cast their votes. On March 26th, six Fathers spoke, having been given new official declarations concerning the reformed schema, and likewise, new sheets containing the observations recently made were distributed for the

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purpose of casting votes. On the 28th, observations concerning the second chapter of the reformed schema on the faith were presented, and eight Fathers spoke. On the 29th, votes were cast on the introduction of the reformed schema, which was approved by unanimous consent; official reports were given concerning the numerous new observations on the first chapter, some of which had been received and accepted by the designated council, while others were rejected; and the entire matter was presented to the Fathers through simple propositions, and all the reforms were either approved or rejected by a vote that was almost unanimous. It is said that such a thorough examination of the votes was carried out throughout. On the 30th, after some official observations were made, the Fathers began their speeches concerning the third chapter of the reformed schema; eleven Fathers spoke. On the 31st, ten Fathers continued their speeches. On April 1st, twelve Fathers spoke, some about the third chapter and some about the fourth chapter of the same schema; and the observations on both chapters ceased. In the following days, the amendments already prepared by the designated council were distributed to the Fathers, along with the following notice: NOTICE: "The following amendments to the schema on the Cattolica Faith, proposed by the Most Reverend Fathers for Chapter III, along with their canons, are sent with this sheet."

[*Latin ed. p. 476*]

476 FROM THE ACTS: "Furthermore, the Most Reverend Fathers are reminded that, concerning these amendments to the third chapter and its canons, votes of the Fathers will be taken on the next forthcoming Wednesday, after a prior report. " From the Secretariat of the Vatican Council, April 2, 1870. JOSEPH E. P. S. HIPPOLYTI, Secretary of the Council. On April 4, the votes were taken and cast regarding the amendments to the second chapter of the aforementioned schema, which, it is said, numbered sixty: the votes regarding the officially proposed declarations were favorable. On April 5, the voting continued: some Fathers were granted permission to return to their respective dioceses; as before, the votes regarding the reforms prepared by the office and proposed to the synod were favorable. On April 6, a report was given officially regarding many amendments made, which are said to number 122, and the votes proceeded favorably. On April 7, the voting on the third chapter was concluded. On April 8, after an official report was given regarding the amendments made and proposed concerning the fourth chapter, the Fathers were called to vote; and the Congregation was concluded, with something still needing to be determined, which was subsequently communicated through the following Notice. NOTICE: "Regarding the conclusion of the schema concerning the Catholic Faith, which begins with the words: 'Therefore, in the matter of pastoral care,' etc., since sufficient discussion was not held on this matter in the last general Congregation, it still requires the votes of the Fathers, before proceeding

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to take votes on the entire fourth chapter. Therefore, the Most Reverend Fathers are reminded to bring with them to the next general Congregation the proposed amendments concerning the fourth chapter of this schema. " From the Secretariat of the Vatican Council, April 9, 1870. JOSEPH E. P. S. HIPPOLYTI, Secretary of the Council.

[*Latin ed. p. 477*]

On the 477th day of the Vatican Council, on April 12th, the proceedings were completed through official declarations and, after votes were taken, nothing remained except that the complete schema, revised anew according to the new observations which had hitherto been submitted to it through votes by individual parts, should be presented to the Synod, according to the method established in the Decree of February 20, 1870, § 14, in which it is stated: "When all parts of the schema have been considered in this manner, the Cardinals will ask the Fathers for their opinions on the examined schema. These votes will be announced orally by the words 'placet' or 'non placet'; however, those who believe that some condition should be added must give their vote in writing." This was strictly commanded for execution. Indeed, at the order of the President, Cardinal De Angelis, the Under-Secretary of the Council, ascending to the pulpit, asked each of the Fathers, named according to order of dignity and promotion, and who, it is said, numbered 595, of whom the majority, numbering 510, absolutely responded "placet," while the remaining 85 responded "placet" with a condition, that is, under some manner or limitation, which they immediately submitted in writing. On April 19th, the death of the Most Reverend Cardinal Gonnella, Archbishop of Viterbo, and of Bishop Raphael Biale of Albi, was announced; and, in connection with this, the votes of some Fathers who had requested to return to their dioceses for canonical reasons were reviewed under the given conditions. The Bishop of Brixen, Vincent Gasser, through the official council for matters of faith, with the most fervent prayer, reviewed each of the conditions added to the votes, and two of those received were accepted; and, after the Fathers were again asked for their votes, all, except one, as it is said, approved of the matter entirely. After these matters were completed, the following notice was distributed to the Fathers:

NOTICE: "Since, after long and arduous labors, to which God has given His blessing, sufficient material is available for holding a public session, Our Holy Lord has decided that the Third Session of the Holy Ecumenical Council of the Vatican should be held next Sunday, which is the Sunday in Albis, on April 24th of the current month."

[*Latin ed. p. 478*]

478 FROM THE ACTS: "In this session, the votes of the Fathers concerning the dogmatic constitution, which is entitled: *De Fide Catholica*, will

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be taken in the same manner as was recently used in the general congregation, namely, so that the names of each of the Fathers of the Council are recited aloud in order of dignity and rank, and those whose names have been recited immediately rise and, in a loud and clear voice, give their vote by responding: 'It pleases,' or, 'It does not please.' It must be noted that, according to the Apostolic Letters: *Multiplices inter*, dated November 27, 1869, number VIII, which prescribe the manner of proceeding in public sessions, it is not permitted to give a vote in any other way, except purely and simply through the words: 'It pleases' or, 'It does not please,' excluding any other form of expression whatsoever. " On the day of the next general congregation to be held after the public session, the Fathers will be notified by a printed notice, along with the agenda, of the matters to be discussed therein. " From the Secretariat of the Vatican Council, April 18, 1870." JOSEPH E P. S. HIPPOLYTI, Secretary of the Vatican Council. CONCERNING THE THIRD PUBLIC SESSION: "Notification to be made by messengers, and a copy also to be delivered at home." "On the twenty-fourth day of April in the year 1870, on the Sunday after Easter, at the ninth hour of the morning, in the patriarchal basilica of St. Peter in Cattolica, there will be the third session of the Holy Ecumenical Council. " The Most Reverend and Right Reverend Cardinals, wearing red robes with black shoes, will proceed to the aforementioned basilica, where, after venerating the Most Holy Sacrament, they will put on the red vestments proper to each order and will seek seats in the conciliar hall. " The Most Reverend Patriarchs, Primates, Archbishops, Bishops, and Abbots who have a place in the Council, after venerating as above the Most Holy Sacrament, will put on the sacred red vestments due to them in the prepared chapel of St. Sebastian and will proceed to the aforementioned hall."

[*Latin ed. p. 479*]

VATICAN COUNCIL 479: "The votive Mass for the Holy Spirit will be celebrated by the Most Reverend and Right Reverend Cardinal Bilio, in which obedience is rendered to the MOST HOLY LORD OUR FATHER; neither will the customary ceremonies be performed. "After the Mass, the prescribed prayers will be recited according to the order, and upon completion of these, suffrage will be given by the Fathers in the form prescribed in the notice published by the Reverend Secretary of the Council of Saint Hippolytus on the 18th of the current month. "Therefore, all and each of the Most Reverend and Right Reverend Patriarchs, Primates, Archbishops, Bishops, Abbots, and the supreme superiors of Congregations and regular Orders, who, by Apostolic concession, have a place in the Vatican Council, are hereby notified. "Also notified are the Vice-Chamberlain, the Prince of the Sacred Palace, the Custodian of the Council, the Reverend Apostolic Auditor, and the Treasurer, the Prefect of the Pontifical House, the Senator and the Conservators of the City, the Master of the Holy Hospital, the

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Protonotaries of the number of five, the Auditors of the Rota of four, the Clerks of the Apostolic Chamber of two, the Four Voting Officials of the Signature, the Abbreviators of the greater park of two, and the officials of the Council." By order of the MOST HOLY FATHER. Aloysius Ferrari, Protonotary Apostolic, Prefect. According to such notification and the notice, the Pontiff did not attend the celebration of the Mass, which was solemnly celebrated by the Most Reverend Cardinal Bilio; upon its completion, the Pontiff entered the synodal hall with a noble family and officials, and with him were the Most Reverend Cardinal De Angelis, who stood at the altar as a priest, as well as the Most Reverend Cardinals Antonelli and Grassellini, who stood at the altar as deacons. What followed regarding the rites and ceremonies was the same as in the preceding session, according to the method which we explained on pages 327 and following. However, it was not observed that the doors be closed and opened for those who did not have a place in the Synodus; and this was done by order of the Pontiff, and therefore the doors of the synodal hall remained open. The Gospel, taken from chapter 28 of Saint Matthew, was recited in the synodal assembly by the Most Reverend Cardinal Borromeo as the Apostolic Deacon; and the functions of the Apostolic Subdeacon were performed by the Reverend d'Isoard, Auditor of the Sacred Rota.

[*Latin ed. p. 480*]

480 FROM THE PROCEEDINGS: What was particularly noteworthy in this session, where all external and internal aspects were intended to be splendid, was the method of public announcement, which could not have taken place in the preceding sessions (1). For the Bishop of Fabriano, following the custom of receiving from the Most Holy Father the decree to be announced, ascended the pulpit and, with a raised voice, pronounced it, beginning with the words "Pius Episcopus" and continuing to the very last word. While the decree was being read, many of the Fathers held before them a copy of the same decree, which they followed with their eyes. Upon the completion of the reading, the same Bishop added these words: "Most Reverend Fathers, do these decrees and canons contained in this constitution please you?" With these words spoken, he descended from the pulpit, whereupon the Under-Secretary of the Council, the Prelate Jacobini, immediately ascended. Having before his eyes the catalog of all the Fathers, he called each one by name, beginning with the Cardinals: that is, the Cardinals with their name and title; the others he called by name alone, and each, in turn, responded, "it pleases." Immediately, the hall resounded with a double voice, one following the other, repeating the word "it pleases." For near the Pontiff's seat, and near the synodal hall door, which is opposite the Pontiff's seat, there were those who performed this office of repeating aloud the word "it pleases" or "it does not please" that each Father pronounced; or, if the called Fathers were absent, they

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were to shout, "absent," with the assistance of the Assignators of Places. Therefore, during the long review of the Fathers, the hall was continuously filled with the lively sound of the repeated words "it pleases, it pleases," or, when it happened, "absent, absent." Meanwhile, in the established seats, the Bishops, Apostolic Notaries, and those who, with their assistance, were noting down the individual votes, were present.

(1) We do not wish to omit here a certain circumstance noted by some, who were standing in the Tribune reserved for the Proctors of absent Bishops. At the beginning of the hymn "Veni Creator Spiritus," a ray of sunlight, the only one visible through a window, descended obliquely through the large arch of the temple (in Italian, "cupola") until it reached the door of the synodal hall. During the same hymn, it gradually declined, and, intersecting almost the name "Ecclesia" inscribed under the same arch, it receded when the hymn ceased.

[*Latin ed. p. 481*]

481 At the Vatican Council, a complete review took place. Those present, under the authority of the Council Secretary, approached the Pontiff's seat to report on the votes cast, which, without any dissent, totaled 667. Then, rising, the Pope addressed the Synodus with these words: "The Decrees and Canons, which are contained in the Constitution just read, have pleased all the Fathers, with no one dissenting; and We, with the approval of the Council, define and confirm them, as they were read, with Apostolic authority." After uttering these words, the Pope continued, and, as we heard and understood, he poured forth these words more from his heart than from his mouth: "Behold, Venerable Brothers, how good and pleasant it is to walk together in the house of God in harmony! May you always walk thus. And since today our Lord Jesus Christ gave peace to His Apostles, and I, His unworthy Vicar, in His name give you peace. 'Peace,' as you know, excludes fear; 'peace,' as you know, shuts out idle chatter. Ah! May this peace accompany you all the days of your life; may this peace be your consolation; may this peace be your strength in death, and may this peace be your eternal joy in heaven." All eyes were intently fixed on Him as He spoke and gestured; many responded spontaneously with "Amen"; and others, no longer thinking that they were in the house of God, spontaneously clapped their hands, but immediately restrained themselves. Therefore, the Decree, which is the first fruit of the Vatican Council, is at the same time the first seed of that Council, which, in its own time, will bear fruit, and it is of the following tenor:

PIUS, BISHOP, SERVANT OF THE SERVANTS OF GOD, WITH THE SACRED APPROVAL OF THE PERPETUAL COUNCIL, for the lasting memory of this matter:

"Our Lord Jesus Christ, the Son of God and Redeemer of the human race, who, about to return to the Father in heaven, promised to be with His

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Church on earth, until the consummation of the ages..."

[*Latin ed. p. 482*]

482 He never failed, at any time, to be present at the acts [of the Council], to assist the teachers, to bless the workers, and to offer help to those in danger. This salutary providence, which constantly manifested itself through countless other benefits, became most clearly evident through the abundant fruits that arose for the Christian world from the ecumenical councils, and especially from Trent, held in difficult times. From this, the most sacred dogmas of the religion were more precisely defined and more fully explained; errors were condemned and suppressed; ecclesiastical discipline was restored and more firmly established; the study of science and piety was promoted in the clergy; colleges were prepared for educating young men for the sacred ministry; and finally, the morals of the Christian people were reformed through more careful instruction of the faithful and more frequent use of the sacraments. Furthermore, a closer communion between the members and the visible Head was established, and vigor was added to the entire body of Christ, the mystical body; religious families and other institutions of Christian piety were multiplied; and there was also that constant and unwavering zeal, even to the shedding of blood, in spreading the kingdom of Christ throughout the world. "However, while we gratefully remember these and other benefits that the Church has received through the most recent ecumenical synod, through divine clemency, we cannot suppress the sorrow caused by the very serious evils that arose, primarily because, among many, the decrees of that same holy synod were either disrespected or neglected. "No one is ignorant that the heresies which the Fathers of Trent condemned, gradually multiplied into numerous sects, which, disagreeing and conspiring among themselves, undermined the faith in Christ among not a few. And so, the very sacred Scriptures, which had previously been declared the sole source and judge of Christian doctrine, began to be held in less esteem, and even to be interpreted with mythical commentaries. "Then arose and spread widely throughout the world that doctrine of rationalism or naturalism, which, being entirely opposed to the Christian religion as a supernatural institution, strives with the utmost effort to establish, in the place of Christ, who is the only Lord and Savior, the so-called reign of reason or nature, excluding Him from the minds of men, from life, and from the morals of the people. Abandoned..."

[*Latin ed. p. 483*]

The Vatican Council, in its deliberations, having considered the Christian religion, while denying God and Christ, has unfortunately led many minds into the abyss of pantheism, materialism, and atheism, so that they now deny even human reason itself, and all norms of justice

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and righteousness, seeking to undermine the very foundations of human society. "Amidst this widespread wickedness, it has unhappily happened that even some of the children of the Catholic Church have strayed from the path of true piety, and in them, the sense of the true faith has gradually diminished. Led astray by various and foreign doctrines, they wrongly mix nature and grace, human knowledge and divine faith, and are found to corrupt the genuine meaning of the dogmas held and taught by the Holy Church, and to endanger the integrity and sincerity of the faith. "Given all this, how can the very heart of the Church fail to be moved? For just as God wills that all men should be saved and come to the knowledge of the truth; just as Christ came to save what was lost, and to gather together the children of God who were scattered: so the Church, established by God as the mother and teacher of all peoples, knows that she is indebted to all, and is ever ready and eager to raise up the fallen, support the wavering, embrace the returning, confirm the good, and lead them to better things. Therefore, at no time can she cease to testify to and proclaim the truth of God, which heals all things, knowing that it has been said to her: 'This is my covenant with them, saith the Lord: My spirit that is in thee, and my words that I have put in thy mouth, shall not depart out of thy mouth, nor out of the mouth of thy seed, nor out of the mouth of thy seed's seed, saith the Lord, from henceforth and for ever' (1). "Therefore, following in the footsteps of Our Predecessors, We have never ceased to teach and defend the Catholic truth, and to condemn false doctrines. Now, with all the Bishops of the world seated with Us and judging, gathered in this ecumenical Synod by Our authority in the Holy Spirit, firmly adhering to the written and transmitted Word of God, as We have received it, piously guarded and genuinely explained by the Catholic Church, We hereby declare and profess, in the sight of all, the saving doctrine of Christ from this Chair of Peter, with the power given to Us by God, rejecting and condemning all errors. (t) Is. 59:21.

[*Latin ed. p. 484*]

484 FROM THE ACTS, CHAPTER I, ON GOD, CREATOR OF ALL THINGS. "The Holy, Catholic, Apostolic, Roman Church believes and confesses that there is one true and living God, Creator and Lord of heaven and earth, Almighty, eternal, immense, incomprehensible, infinitely perfect in intellect and will and in every perfection: who, although He is one and singular, is entirely simple and immutable in substance, and is to be praised as being distinct from the world in essence and being, beatified in Himself and from Himself, and infinitely exalted above all things that are besides Him and can be conceived. "This alone is the true God, who, by His goodness and omnipotent power, freely and deliberately created both spiritual and corporeal creatures from nothing at the beginning of time, not to increase His own blessedness, nor to acquire anything, but to manifest

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His perfection through the good things imparted to creatures, namely, angelic and worldly creatures, and then human beings, constituted as a common union of spirit and body (1)." "Furthermore, God protects and governs all that He has created by His providence, reaching from end to end mightily, and arranging all things suavely (2). For all things are naked and open before His eyes (3), even those things that will happen through the free action of creatures. CHAPTER II, ON REVELATION. "The same Holy Mother Church holds and teaches that God, the beginning and end of all things, can be certainly known by the natural light of human reason from the things created; for the invisible things of Him, from the creation of the world, are seen through the things that are made (4); nevertheless, it has pleased His wisdom and goodness to reveal other things also.

(1) Council of Lateran IV, chap. ÍFirmiter.

(2) Wisdom VIII, 1.

(3) Cf. Hebrews IV, 13.

(4) Romans I, 20.

[*Latin ed. p. 485*]

The COUNCIL OF VATICAN, by a supernatural means, reveals itself and the decrees of its eternal will to the human race, as the Apostle says: "God, who, at sundry times and in divers manners, spoke in times past to the fathers by the prophets; last of all, in these days He spoke to us in His Son" (1). This divine revelation is to be attributed the power to ensure that those things which, in divine matters, are not accessible to human reason by themselves, may also be known with certainty and without any error by all of the human race in the present condition. However, revelation is not absolutely necessary for this reason, but because God, out of His infinite goodness, has ordained man for a supernatural end, namely, to participate in divine goods, which entirely surpass the understanding of the human mind; for "eye hath not seen, nor ear heard, neither hath it entered into the heart of man, what things God hath prepared for them that love Him" (2). This supernatural revelation, according to the faith of the universal Church, declared by the holy Council of Trent, is contained in the written books and in the unwritten traditions, which were received by the Apostles from the mouth of Christ Himself, or which were handed down by the Apostles themselves, dictated by the Holy Spirit, as if by their own hands, and have come down to us (3). The books of the Old and New Testaments, with all their parts, as they are enumerated in the Decree of that same Council, and as they are found in the old Latin Vulgate edition, are to be received as sacred and canonical. The Church holds these books to be sacred and canonical, not because they were composed solely by human industry and then approved by its authority; nor merely because they contain revelation without error; but because, inspired by the Holy Spirit, they have God as their author, and as such, they have been handed down to the Church.

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Because, however, what the holy Council of Trent prudently decreed concerning the interpretation of the divine Scripture, in order to restrain rash minds, is wrongly explained by some men, We, renewing that same decree, declare that in matters of faith and morals, pertaining to the edification of Christian doctrine, that interpretation is to be held as the true meaning of the sacred Scripture, which the Holy Mother Church has held and holds, to whom it belongs to judge of the true meaning and interpretation of the Scriptures (1) Heb. I, 1-2. (2) 1 Cor. II, 9. (3) Conc. Trid. sess. IV Decr. de Can. Script.

[*Latin ed. p. 486*]

486 FROM THE ACTS of the Fathers; and therefore, it is not permitted to anyone to interpret Holy Scripture against this sense, or even against the unanimous consensus of the Fathers. CHAPTER III. ON FAITH. "Since man is entirely dependent on God, as his Creator and Lord, and created reason is entirely subject to the uncreated Truth, we are bound to offer obedience to God through faith, both in understanding and in obedience of will. This faith, which is the beginning of human salvation, the Catholic Church proclaims to be a supernatural virtue, by which, with the help of God and the grace that accompanies it, we believe the truths revealed by Him, not because of the intrinsic truth of things, perceived by the light of natural reason, but because of the authority of the revealing God Himself, who cannot be deceived nor deceive. For faith, as the Apostle testifies, is the substance of things hoped for, the evidence of things not seen (1).

"Nevertheless, that our obedience to faith might be in harmony with reason, God willed that the internal aids of the Holy Spirit be joined with external proofs of His revelation, namely, divine works, and especially miracles and prophecies, which clearly demonstrate God's omnipotence and infinite knowledge, and are the surest signs of divine revelation, suitable for all understanding. Therefore, both Moses and the Prophets, and especially Christ the Lord Himself, performed many and most manifest miracles and prophecies; and we read of the Apostles: But they going forth preached every where: the Lord working withal, and confirming the word with signs that followed (2). And again it is written: We have the more sure prophetic word; to which you do well to attend, as to a lamp shining in a dark place (3)."

"Although the assent of faith is by no means a blind movement of the soul, nevertheless, no one can consent to the evangelical preaching in the way that is necessary for obtaining salvation, without the illumination and inspiration of the Holy Spirit, which gives to all sweetness in the..."

(1) Hebrews XI, 1.

(2) Mark 16:20.

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(3) 2 Peter I, 19.

[*Latin ed. p. 487*]

Of the Vatican Council, 487, feeling and believing the truth (1). Wherefore, faith itself, even if it does not work through charity, is a gift of God, and its act is a work pertaining to salvation, by which man freely renders obedience to God, consenting to and cooperating with His grace, which he might resist. "Furthermore, by divine and Catholic faith, all things are to be believed that are contained in the written or handed-down word of God, and those things which are presented by the Church, whether by solemn judgment, or by the ordinary and universal magisterium, as divinely revealed, are to be believed. "For without faith it is impossible to please God, and to attain to fellowship with His sons; therefore, to no one has justification ever happened without it, nor will any one attain to eternal life, unless he perseveres in it until the end. In order that we may fulfill the duty of embracing true faith, and persevering steadfastly in it, God instituted the Church through His only-begotten Son, and instructed His Church with manifest signs, that it might be recognized by all as the guardian and teacher of the revealed word. For all things which are arranged by God in a most abundant and wondrous manner for the evident credibility of the Christian faith belong to the one Catholic Church alone. Moreover, the Church itself, by its very admirable propagation, its outstanding holiness, and its inexhaustible fecundity in all good things, by its Catholic unity, and its invincible stability, is a great and perpetual motive for credibility, and an irrefutable testimony of its divine legation. "Thus, it acts as a banner lifted up among the nations (2), and invites those who have not yet believed, and assures its own children, that their faith, which they profess, rests on a most firm foundation. To this effective testimony, a support is added from heavenly power. For the most benign Lord, by His grace, excites and helps those who are wandering, that they may come to the knowledge of the truth; and those whom He has translated from darkness into His wonderful light, He confirms in this same light by His grace, not abandoning them, unless they abandon Him. Therefore, the condition of those who, by the heavenly gift of faith, adhere to the Catholic truth, is by no means inferior to that of those who, led by human opinions, follow a false religion; for those who have received faith under the teaching of the Church, (t) Syn. Arans. I, page 7. (3) Is. XI, 12.

[*Latin ed. p. 488*]

488. FROM THE ACTS, they can never have a just reason for changing, or for bringing the same thing into doubt. Since these things are so, let us give thanks to God the Father, who has made us worthy to share in the lot of the saints in light, that we may not neglect so great a salvation, but looking to the Author and Finisher of our faith, Jesus, let us hold fast the

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confession of our hope without wavering.

CHAPTER IV. ON FAITH AND REASON.

"It is also the constant consensus of the Catholic Church that there are two orders of knowledge, distinct not only in principle, but also in object: in principle, because in one we know by natural reason, and in the other by divine faith; in object, because, besides those things to which natural reason can attain, mysteries are proposed to us which must be believed, mysteries hidden in God, which cannot be made known unless revealed by God. Therefore, the Apostle, who testifies that God is known by the Gentiles through the things that are made, yet speaking of the grace and truth that came through Jesus Christ (1), says: "We speak God's wisdom in a mystery, which God foreordained before the ages for our glory, which none of the princes of this world knew: but God has revealed them to us through His Spirit: for the Spirit searches all things, even the depths of God" (2). And the Only-Begotten confesses to the Father that He has hidden these things from the wise and prudent, and has revealed them to babes (3).

"Indeed, reason, when illuminated by faith, diligently, piously, and soberly seeks, and, with God's help, attains some understanding of the mysteries, both through the analogy of those things which it knows naturally, and through the connection of the mysteries themselves with each other and with the ultimate end of man; yet it is never made suitable for understanding them in the manner of truths which constitute their own proper object. For the divine mysteries, by their very nature, so surpass the created intellect, that even when transmitted by revelation and accepted by faith,..."

(1) John 1:17.

(2) 1 Corinthians 2:7-9.

(3) Matthew 11:25.

[*Latin ed. p. 489*]

OF THE COUNCIL OF VATICAN: Yet, these matters remain veiled by the garment of faith and enveloped by a certain obscurity, as long as we are pilgrims in this mortal life: for we walk by faith, and not by sight (1). "But although faith surpasses reason, there can never be a true contradiction between faith and reason: since the same God, who reveals mysteries and infuses faith, has bestowed upon the human mind the light of reason; and God cannot deny Himself, nor can He ever contradict the truth." This appearance of contradiction arises primarily when either the dogmas of faith have not been understood and explained according to the mind of the Church, or when commentaries on opinions are taken as the pronouncements of reason. Therefore, we define as entirely false every assertion that

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is contrary to the truth illuminated by faith (2). Furthermore, the Church, which, together with the apostolic office of teaching, has received the mandate of guarding the deposit of faith, also has, by divine right, the power to condemn false science, lest anyone be deceived by philosophy and empty deception (3). Therefore, all Christian faithful are forbidden not only to defend, as legitimate conclusions of science, opinions that are known to be contrary to the doctrine of faith, especially if they have been condemned by the Church, but they are also held to consider them as errors, which present the deceptive appearance of truth. "Not only can faith and reason never be at odds with each other, but they also mutually assist each other, since right reason demonstrates the foundations of faith, and, illuminated by its light, cultivates the knowledge of divine things; and faith, in turn, frees reason from errors and protects it, and instructs it with manifold knowledge. Therefore, it is not only untrue that the Church opposes the cultivation of human arts and disciplines, but rather, she helps and promotes them in many ways. She does not ignore or despise the benefits that they bring to human life; on the contrary, she acknowledges that, as they originate from God, the Lord of sciences, if properly treated, they can, with the help of His grace, lead to God." Moreover, the Church does not forbid the use of their own principles and methods in their respective fields; but recognizing this just freedom, she diligently takes care that the divine doctrine is not corrupted.

(1) 2 Corinthians V, 7.

(2) Council of Latran, V, Bull of the Apostolic Regimen.

(3) Colossians II, 8.

[*Latin ed. p. 490*]

FROM the Acts, those who contend against errors readily embrace them themselves, or, having transgressed their own boundaries, they occupy and disturb those things which pertain to the faith. "For the doctrine of faith, which God has revealed, is not presented as a philosophical invention to be perfected by human ingenuity, but rather as a divine deposit entrusted to the Bride of Christ, to be faithfully guarded and infallibly declared. Hence, the meaning of the sacred dogmas must always be retained, as once declared by the Holy Mother Church, and never be departed from, even if under the guise of a higher understanding in name and appearance. Therefore, let the understanding, knowledge, and wisdom of individuals and of all, of one man and of the entire Church, increase greatly and vigorously with the passage of ages and centuries; but only within its own genus, that is, within the same dogma, the same meaning, and the same judgment (1). CANONS L CONCERNING GOD, CREATOR OF ALL THINGS. 1. If anyone denies that there is one true God, Creator and Lord of all visible and invisible things, let him be anathema. 2. If anyone has not blushed to affirm that nothing exists except matter, let him be anathema. 3. If anyone

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says that the substance or essence of God and of all things is one and the same, let him be anathema. 4. If anyone says that finite things, whether corporeal or spiritual, or at least spiritual things, have emanated from the divine substance; or that all things are made through the manifestation or evolution of the divine essence, (1) Vincent of Lerins, Commonitorium, n. 28.

[*Latin ed. p. 491*]

OF THE COUNCIL OF VATICAN:

491. Or, finally, that God is a universal or indefinite being, which, by determining itself, constitutes the totality of things into distinct genera, species, and individuals; let him be anathema.

5. If anyone does not confess that the world and all things contained therein, both spiritual and material, according to their entire substance, were produced by God from nothing; or that God created not by a will free from all necessity, but so necessarily as He necessarily loves Himself; or that the world was created for the glory of God, let him be anathema.

II. OF REVELATION.

1. If anyone says that God, the one true God, our Creator and Lord, cannot be certainly known through the things that have been made, by the natural light of human reason; let him be anathema.

2. If anyone says that it cannot be, or it is not necessary, that man should be taught about God and the worship due to Him through divine revelation; let him be anathema.

3. If anyone says that man cannot be divinely elevated to the knowledge and perfection that surpasses nature, but that he can and ought to attain, by a constant progress, to the possession of all truth and goodness from himself; let him be anathema.

4. If anyone does not accept the entire books of Holy Scripture, with all their parts, as the Holy Council of Trent has decreed, as sacred and canonical; or if he denies that they are divinely inspired; let him be anathema.

III. OF FAITH.

1. If anyone says that human reason is so independent that faith cannot be commanded to it by God; let him be anathema.

[*Latin ed. p. 492*]

492 FROM THE ACTS 2: If anyone should say that divine faith is not distinguished from natural knowledge of God and moral matters, and therefore, divine faith does not require that revealed truth be believed because

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of the authority of the revealing God; let him be anathema. 3. If anyone should say that divine revelation cannot be made credible by external signs, and therefore, only the internal experience or private inspiration of each individual should move people to faith; let him be anathema. 4. If anyone should say that miracles cannot happen, and therefore, all accounts of them, even those contained in Holy Scripture, should be rejected as fables or myths: or that miracles can never be certainly known, and that they cannot properly prove the divine origin of the Christian religion; let him be anathema. 5. If anyone should say that assent to the Christian faith is not free, but must necessarily be produced by arguments of human reason: or that for true faith alone, which works through charity, divine grace is necessary; let him be anathema. 6. If anyone should say that the condition of the faithful is the same as that of those who have not yet attained to the one true faith, so that Catholics may have a just reason to question, with suspended assent, the faith which they have already accepted under the teaching of the Church, until they have provided scientific proof of the credibility and truth of their faith; let him be anathema. IV. ON FAITH AND REASON. 1. If anyone should say that in divine revelation there are no true and proper mysteries, but that all dogmas of faith can be rightly understood and demonstrated through properly cultivated reason from natural principles; let him be anathema. 2. If anyone should say that human disciplines are to be treated with such freedom, that their assertions, even if they are contrary to revealed doctrine as true, cannot be condemned by the Church; let him be anathema. 3. If anyone should say that it is possible for dogmas proposed by the Church to, at times, according to the progress of science, be understood in a manner that...

[*Latin ed. p. 493*]

To the Council of VATICANI, another [teaching] must be ascribed, distinct from that which the Church has understood and understands; let it be anathema. "Therefore, fulfilling the duty of our highest pastoral office, we implore all the faithful of Christ, especially those who hold positions of leadership or who are engaged in the ministry of teaching, through the very bowels of Jesus Christ, and also by the authority of the same God and our Savior, that they devote their efforts and diligence to guarding against and eliminating these errors, and to spreading the light of the purest faith. "For it is not enough to avoid heretical perversity, unless those errors also are diligently avoided which, to a greater or lesser extent, lead to it; we warn all [officials] to also observe the Constitutions and Decrees by which such erroneous opinions, which are not explicitly enumerated here, have been condemned and prohibited by this Holy See."

[*Latin ed. p. 494*]

FROM THE HOLY CONGREGATION OF THE COUNCIL OF TRENT,

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CONCERNING THE SOLUTION OR DISPENSATION, dated December 18, 1869, and February 19, 1870. Summary of the case. Livius, a priest, having completed his studies in the diocesan seminary, was appointed by the Bishop as a teacher and chaplain in a town within that diocese; he fulfilled this office for a time. Subsequently, he was a teacher of boys in the seminary itself, from the year 1860 until the end of the scholastic year 1866. During this time, he obtained permission from the Bishop (as Livius stated) for a period of three months, to go to another diocese. Towards the end of that quarter, Livius is said to have asked the Bishop to allow him to remain in that other diocese, in order to teach the humanities there at the university. It is said that the Bishop did not respond to this request, but rather, at the end of the quarter, on November 19th, informed Livius through another person that, since he had abandoned his office and his own diocese in violation of the regulations, he was suspended from the administration of the Sacraments until he should come to his senses. On the 17th of the same month, the Bishop issued a formal decree of suspension to him through the Vicarious General of the diocese in which Livius resided. Since Livius refused to return to the diocese, the Bishop did not lift the suspension. Livius, therefore, petitioned the Holy Congregation, seeking what he could not obtain from the Bishop. After Livius's petitions were sent to the Bishop for information and a vote, among other things, the response stated: that the account presented by the aforementioned Livius contained falsehoods and omitted matters that should have been reported; that he had not, up to the present time, complied with the sacred canons and the ecclesiastical regulations of the diocese; and that he had caused injury and damage to the seminary and to the church that had supported him, the priest.

[*Latin ed. p. 495*]

SOLUTION OR EXCOMMUNICATION 495, and that he had not made amends for it: the scandals caused to the clergy and the people of the diocese had not been repaired; therefore, the petitions offered by Livio to the Holy See should be rejected. Nevertheless, he who for almost three years had disregarded ecclesiastical laws and censures, remaining obstinate, had certainly not acted properly within the diocese. "But," the Bishop continued, "during his clerical training, which lasted for seven years, and in the Seminary for practical moral theology, where new priests are received for three years, he made abundant use of the benefits and subsidies of the Seminary; the cause of this damage was his abandonment and the Church, for whose benefit or necessity he was ordained to the sacred orders, and he abandoned it in order to seek more lucrative pastures. Therefore, let him make amends to the Church and the Seminary, by absolutely returning all those documents commonly called 'Cedole del Consolidato romano,' which yield an annual return of two hundred and fifty florins. Then, by a formal act in the diocesan court, let him declare that he renounces the

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original parish of N., and that he will never, not even once, perform any sacred function within the territory of that parish without obtaining written permission from the Ordinary, under penalty of suspension, which will be incurred by such an action. With these conditions fulfilled, and the censure revoked, let him depart in peace. The proposed compensation seems to be due and just, as can be seen by analogy from the writings of Francés de Eccl. cath. c. 28; Chrispin. de Visit p. 2 § 31; Monacelli Form. p. 2 tit. 1; and from the response of the Holy Congregation of Councils in Cesena, at the Synodus of February 26, 1699." This was from the Bishop. The question, therefore, seemed to depend on another question: whether Livio was obligated to compensate the Seminary for the expenses it had incurred for his ecclesiastical education; but the cause proposed at the meeting held on December 18, 1869, resulted in a decision: postponed and deferred. Therefore, with new letters from the Bishop, the following is more fully explained and narrated: that Livio had left his diocese, in which he was born, raised, and ordained a priest, without the permission and authorization of the Ordinary, which many sacred canons, which the Bishop cited, completely condemned; that he sought a position in the laity outside the diocese, assuming it, completely ignorant of the Ordinary, and disregarding diocesan and provincial regulations; that he violated the contract by which he was to serve for six...

[*Latin ed. p. 496*]

496. The SOLUTION, or EXCARINATION, was linked to the diocesan seminary as a grammar teacher, where he received lodging, meals, and a salary of 300 florins. He had been warned by the Rector of the Seminary to return, but he refused; he was warned of the imposition of a censure of suspension, and he remained obstinate. He was then ordered to present himself to the parish of O., to serve as a schoolmaster, as the municipality advertised, with a salary of 650 florins, and to assist the elderly parish priest, but he refused. Subsequently, the Bishop indicated that scandals had arisen and were being spread among the clergy, especially due to the shortage of priests in the most pressing needs of the Christian people. He had never made amends for the damages or scandals caused; and if he wished to be excardinated from the diocese, this would be granted to him on the condition that he repair the damages caused through spiritual exercises and fulfill his obligations, namely, the expenses that the Seminary had incurred for his ecclesiastical education. Conversely, Livius claimed that he had already been dismissed from the diocese by the Bishop; therefore, the entire controversy was reduced to whether he was obligated to repay the Seminary the expenses he had incurred. And he maintained that he was not obligated to do so.

SYNOPTIC DISCUSSION.

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RIGHTS OF THE BISHOP.

The Bishop, in his letters, cited both ancient and more recent canons that establish the right to compel priests to remain in their own diocese, namely, Canon 5 of the Council of Nicaea, Canon 5 of the Council of Antioch, Canon 13 of the Sardican Council, which state that clerics must be subject to the Bishops, and that if they withdraw, they can be excommunicated, and that such excommunicated individuals, no matter to whom they present themselves, cannot be admitted to communion by anyone else, until they are absolved by their own Bishop, who bound them, or by a provincial synod, if they appeal to it. Canon 3 of the Council of Antioch forbade clerics from traveling without the Bishop's permission, otherwise they were to be deposed from their rank. Canons of the Apostles 15, 16, 32, and the Sardican Synod, canons 16, 18, and 19, prohibit a priest, deacon, or subdeacon from being received into ministry or communion, if he is from another diocese, without the commendatory letters of his own Bishop; or from being admitted or ordained into the clergy.

[*Latin ed. p. 497*]

497. Without such letters of dismissal. The Council of Cartagena, under Pope Julius, repeated these prohibitions in Canon 5. Finally, the Council of Trent, in Session 22, in the Decree concerning what is to be observed and avoided in the celebration of the Mass, stated: "Furthermore, that irreverence may be avoided, let each Bishop, in his own diocese, forbid that any vagrant and unknown priest be permitted to celebrate Mass." Also, in Session 23, in Chapter 8 of the Decree on Reforms, it was established: "Let each one be ordained by his own Bishop. But if anyone requests to be promoted by another Bishop, let this not be permitted to him, even under the pretext of any general or special rescript or privilege, or at any time, unless his probity and morals are attested by the testimony of his own Ordinary." But the Advocate, acting in the name of the Bishop, added other rights to confirm these points. He recalled, in particular, the disposition of the Council of Trent, in Session 23, Chapter 16, which states: "Since no one ought to be ordained who is not useful or necessary to his churches, the Holy Synod, following the example of the sixth canon of the Council of Chalcedon, decrees that no one shall henceforth be ordained who is not assigned to that church or pious place, for whose necessity or benefit he is received, where he may perform his duties, nor shall he wander about in uncertain places. But if he leaves the place without the consent of the Bishop, let the exercise of the sacred ministry be forbidden to him." And the Holy Congregation of the Council has frequently confirmed the decrees of the Bishops which forbade, under severe penalties, that clerics depart from the diocese without the permission of the Bishop, as in Larinen, August 30, 1732; in Segnen, September 13, 1749; and in Tinen, March 15, 1625, in the book of Decrees, page 33; and in Amerina, May 8, 1756. Therefore, since

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Livius was raised and educated by the church and seminary, and since he was ordained for the necessity or benefit of that same church, he cannot depart from the diocese and abandon it without the permission of the Bishop. And since he did so against the will and admonitions of the Bishop, he was rightly subjected to the censure of suspension, according to the same Tridentine disposition, and since Livius persevered in his contumacy, there is no place for the absolution of the suspension, as stated by Benedict XIV in the work *De Synodo Dioecesana*, Book 1, Chapter 10, and by other authors. Therefore, the Advocate maintained that the disposition made by the Holy Congregation in the case of Amerina on May 8, 1756, should be applied in the present case, as found in the Acts, Volume V, page 57, line 32.

[*Latin ed. p. 498*]

498. OF A SOLUTION OR EXCARDIATION, of which this was the nature of the case. A young man, studying in Romae, petitioned the Bishop of originis to be admitted to the clerical state. He was therefore assigned to the church of his native city, where there was a lack of priests, and, having received dismissal letters from the Bishop, in which mention was expressly made of the need of that same church, he received the minor orders. Later, he obtained the title of *cappellanus* [chaplain], and, at his request, the Holy Congregation granted him a permanent appointment, and he advanced to the sacred orders, the need of the church being mentioned again by the Bishop in the dismissal letters. Upon returning to his homeland, he requested permission to leave in order to return to Romae; the Bishop refused; and, having imposed the penalty of suspension, forbade him from leaving. However, when he had left, the following question was proposed to the Holy Congregation: "I. Whether the priest N. N., assigned to the service of the parish church of N., and promoted to the sacred orders for the necessity of that same church, having obtained the title of chaplain and having been granted a permanent appointment by the Holy Congregation, could, contrary to the precept of the Bishop, leave that church in order to remain in the city. II. And whether he would incur the penalties prescribed by the councils in this case." To which the Holy Congregation responded: "To I. Negatively, having been assigned a suitable position by the Bishop. To II. Consult your own conscience. Regarding compensation for the seminary, the Advocate noted that these were placed under the condition that Livius would obtain excardination, either lawfully or unlawfully; but, considering the circumstances as if the condition had been fulfilled, he argued that Livius should be held liable for the expenses of the seminary; regarding which, he cited the case of Tiburtina of March 11, 1752, in which, having proposed the following questions: "II. Whether the Bishop of Tiburtina may compel the students of the seminary to fulfill the obligation of replenishing the funds of the seminary in the case in which they either do

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not advance to the sacred orders, or leave the aforementioned seminary before completing their studies without the permission of the Bishop. And to the extent that it is affirmative. III. Whether and for what reason the sum should be paid by the same students by virtue of this obligation in the case." The Holy Congregation responded: "To II. Affirmative, to III. For the benefit of the seminary, at the discretion of the Bishop with the advice of the Deputies, and more." This obligation was confirmed, citing the authority of the Provincial Synod of Burdigalensis, in which it was stipulated: "If, without the permission of the Bishop, they should place themselves in the service of another place or person, or if they should flee outside the diocese in which they are to serve, they shall be held liable for restitution."

[*Latin ed. p. 499*]

SOLUTION OR DISCHARGE 499: "of food and other expenses." Furthermore, citing the authority of Cecconi, formerly Bishop of Montalto, who in his work *Dell'istituzione dei Seminarii*, chapter 4, discusses the matter at length, and who derives the same obligation from an unnamed contract: "I give that you may give, I give that you may do, or, I do that you may give." LIVIUS. Livius, on the contrary, asserts that he had already been dismissed from the diocese by the Bishop, and that the Bishop declared that he would no longer receive him; thus, he resolved the entire question to the obligation of compensating the Seminary. However, he denied that this obligation existed for several reasons: firstly, because compensation had not been customary; secondly, because the Seminary received compensation from students who were not members of the clergy; and thirdly, because he had already been amply compensated for six years of teaching in the Seminary! If anything were to be compensated, it would be because he had received a pension and had not been entirely maintained without cost. He addressed the authorities cited to the contrary, noting that they concerned students who were admitted gratuitously and who, after being dismissed from the clerical state, abandoned the ecclesiastical path. However, he maintained that restitution was only due when it had been prescribed by some law, whether of the foundation, the Bishop, the synod, or by legitimate custom, as stated by Lucidi in his recent work *De Visit SS. Liminum*, volume 2, § 6, number 2. DOUBT: "Can and in what way can a priest (Livius) be compelled to return to his proper diocese in this case?" RESOLUTION: The Holy Congregation of the Council, after again examining the case on February 19, 1870, responded: "He can be compelled to return to his proper diocese, provided that he obtains absolution from excommunication, after humbly requesting it and having completed spiritual exercises for a period designated by the Bishop, and that, with due provision made by the Bishop, he receives a suitable allowance." FROM WHICH YOU MAY GATHER: 1. According to the ancient discipline, no

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one could be validly initiated into the sacred orders who was not attached or incardinated to a particular church to which he was bound to serve (1). (1) Such incardination was intimately connected with Holy Orders, so that neither a Bishop nor a Priest could be said to exist without a connection to a church.

[*Latin ed. p. 500*]

500. SOLUTIONIS, VEL EXCARINATIONIS. Concilium Tridentinum, sequens vestigia huius disciplinae (1), statuit, nullum ordinari debere, qui illi ecclesiae aut pio loco, pro eius necessitate aut utilitate assumitur, non adscribatur. III. Temporis lapsu, etiam eiusmodi disciplina laxior facta est, ita ut vix amplius in consideratione habeatur necessitas vel utilitas alicuius peculiaris ecclesiae vel pii loci; sed potius utilitatis spes, quae obventura sit dioecesi vel saltem ecclesiae indeterminate consideratae (2). aliqua non esset coniunctus cui inservire deberet; de hac re recoli possunt quae scripsi in Vol. III, pag. 507 et seqq. (1) Synodus Tridentina, c. 16, sess. 23, de Ref., commemoravit canonem sextum Concilii Chalcedonensis, cuius vestigiis inhaesit; ille autem ita se habet, juxta accuratissimam lectionem Eminentissimi Card. Pitra: « Nullum absolute ordinari debere Presbyterum aut Diaconum, nec quemlibet in gradu ecclesiastico, nisi specialiter ecclesiae, civitatis aut possessionis, aut martyrii, aut monasterii, qui ordinandus est, pronuntietur. Qui vero absolute ordinantur, decrevit sancta Synodus irritam haberi hujusmodi manus impositionem et nusquam posse ministrare ad Ordinantis iniuriam ». Erat videlicet sic ordinatus, perpetuo suspensus, ut modo diceremus. (2) Eiusmodi laxior disciplina, tamquam consequens, descendit ex variis titulis s. ordinationis, pedetentim in ecclesia admissis. Namque, si quis ordinari potest non ratione tantum ecclesiae cui inservire perpetuo teneatur; sed etiam ratione alicuius cappellaniae vel pensionis vel patrimonii etc., eo ipso consequi debuerat huius disciplinae relaxatio; quamquam in subsidium tantum hos titulos Tridentina Synodus admiserit. Eo magis laxus praesenti aetate evasit hoc disciplinae caput, quod, in adiunctis in quibus nunc versatur ecclesia, etiam subsidiarii s. ordinationis tituli plerumque fere umbrátiles evaserint. Dici passim solet, titulum s. ordinationis ideo a ss. canonibus postulari et exigi, ne clerici in dedecus coetus clericalis mendicare cogantur; sed inspecta horum titulorum origine, haec neque unica, neque praecipua ratio est: si haec fuisset unica ratio, quisquis vere dives potuisset antiquitus facile ordinari, quin alicuius ecclesiae ministerio manciparetur: at contra erat; namque, qui absolute ordinabatur, erat perpetuo suspensus, tamquam si ordinatus non fuisset. Praecipua autem ratio, cur veteres canones exigebant s. ordinationis titulum, ex eo derivabat, quod Clericus sine ministerio determinato dari non posset, quod sine gradu ecclesiastico cum proprio ministerio coniuncto, Clericus quisquis nec appellari quidem posset: unde passim legitur generalis

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sanctio ob quasdam graves culpas: Clericus e gradu suo deponatur; e loco suo deiiciatur, et similia; quae supponunt omnes clericos semper habuisse ecclesiam et gradum quem occuparent: eo fere modo, quo nec ordinabatur Episcopus sine ecclesia cui perpetuo vinculo praesideret. Ex hac arcta coniunctione s. ordinationis cum

[*Latin ed. p. 501*]

SOLUTION OR EXCARINATION 501 IV. Why is the power of the Bishop to deny a perpetual departure from the diocese, or excardination, to clerics ordained by him, also weakened, when, in most cases, clerics truly incardinated in the canonical sense cannot even be said to exist. V. However, this power is not so weakened that the Bishop cannot impose ecclesiastical penalties on a cleric of his diocese if he is willing to assign a suitable office and stipend to that cleric. VI. Especially if the cleric has been nurtured and educated at the expense of the seminary and the care of that same church. VII. However, the cleric departing from the diocese cannot be compelled, as a matter of justice, to reimburse the seminary for its expenses, unless perhaps it has been established by some special law. VIII. Nevertheless, it may seem that the Ordinary, guided by equity, can demand these same expenses as a reasonable condition, if the cleric desires to obtain excardination, which he cannot obtain by law or equity. In *ortae*, the other principal ecclesiastical laws are: the law of residence, by which clerics were not permitted to wander; the rights and duties of both clerics and bishops accurately determined by canons; and the perpetuity of benefices. And the strength of the entire ecclesiastical discipline was, as it were, drawn from its principal foundation, from the aforementioned union of the cleric with a particular church to which he was perpetually bound by holy orders; therefore, when that union is relaxed, the other laws derived from it begin to waver, and some, while retaining their names, have lost the character of their original *origines*.

[*Latin ed. p. 502*]

COMMUTATIONIS VOLUNTATIS. Die 23 Ianuarii 1869. Summarium praecum. Pius, testator, in urbe Italica, N. adsignata, constituit tria patrimonia sacra, quorum redditus sunt ducates 40 pro singulis; immo, duobus addidit et alia ducata 10, cum onere tamen quinquaginta Missarum. Voluit autem ut Beneficiariorum nominatio in perpetuum fieret a Rectore pro tempore domus religiosae B. Unum ex illis patrimoniis cum dicto Missarum onere conferendum erat; sed, opera civilis Gubernii, dispersi tum iam fuerant Regulares dictae domus religiosae B.; ideoque Rector deerat. Quare, uxor testatoris, vidua, existimans his in adiunctis nominationem facere ad se pertinere, ad sacrum patrimonium nominavit testatoris pronepotem, qui iam erat Presbyter. Confecto instrumento, cum ad reddituum possessionem capiendam necesse fuerit dicto Presbytero

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civilem adire magistratum, eum adivit, qui respondit: «nominatio nulla est, cum fons in perpetuum reservaverit ius nominandi Rectori pro tempore domus religiosae B. Ideoque orator se conferret ad Moderatores aerarii ecclesiastici aut ad Rectorem ecclesiae B., atque facta ab his nominatione, agi posset de re proposita». Neutrum quod iubebatur sibi licere Presbyter cernens, cum ipse nihil commune haberet cum Moderatoribus illegitimi aerarii ecclesiastici nec cum intruso Rectore ecclesiae B., a re prosequenda abstinuit. Quum autem postea, extruso illegitimo Rectore, alter ab Archiepiscopo suffectus illi ecclesiae fuerit, ad hunc Presbyter festinavit, ut nominationem obtineret. Anceps haesit ecclesiae Rector, utrum necne ad patrimonium sacrum, qui iam Presbyter esset nominari posset, cum ea sit patrimonii ecclesiastici natura, ut Clerico ad sacros ordines promovendo constituatur, et quidem in carentia alterius canonici tituli: quocirca, consilio accedente provincialis Superioris Ordinis Regularis, ad quem domus B. ante pertinebat, suasit Presbytero, ut rem definiendam proponeret Sanctae Sedi; atque ita, ut si non iure, ex gratia eam obtineret, atque simul perciperet summam fructuum, qui cumulati essent annis praeteritis, sibi.

[*Latin ed. p. 503*]

COMMUTATION OF THE WILL 503: The burden of celebrating Masses, which had been omitted in previous years, was imposed. The priest presented these reasons to the Holy See, supporting his request: 1° that he was the nephew of the founder; 2° that, with the consent of the Vicar General, an instrument had been legitimately drawn up in the year 1863, and that he had incurred expenses and paid 240 pounds in taxes in the name of the government; 3° that he alone was obligated to support his elderly parents and three sisters; 4° that, due to circumstances, other ecclesiastical revenues had failed to materialize for him, and that he already possessed only a meager income from his sacred ordination; 5° that, considering the patrimony in question, he had already contracted debts due to the necessities of his family. The Archbishop, being asked and informed, declared that what had been presented by the petitioner was true, and responded favorably to the prayers. OBSERVATIONS FROM THE OFFICE. It has been noted that the nature of the sacred patrimony, properly understood and accepted, pertains to clerics who are to be ordained; therefore, if the patrimony in question were conferred upon a priest, the will of the testator, which both law and justice demand be preserved, would thereby be harmed. However, in the present matter, several circumstances concur that suggest a favorable outcome, namely, the presumption that the testator did not intend for his relatives to be in such dire straits; the nomination made by the testator himself; the expenses legitimately incurred for this purpose; the consent of all those whose interests are involved; and finally, that while a derogation of the will is being considered, it is not a serious one. DECREE. After the prayers were presented to the Sacred Congregation of the Council on

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January 23, 1869, a response was issued: considering the particular circumstances, for a period of ten years, with the agreement of the Most Holy [Pope].

FROM WHICH YOU CAN GATHER:

I. If any reasons exist that suggest a derogation of the testator's will, only that which the reasons require should be derogated.

II. Therefore, if the reasons that suggest a derogation may cease with the passage of time, the derogation should be limited to a specific period.

[*Latin ed. p. 504*]

PARISHES. February 19, 1870. Summary of Facts. From ancient times, a monastery (coenobium) of Monachum existed in the town of A, in the Kingdom and diocese of B. Both the founder of the monastery and the Bishop contributed goods to the same monastery. And in order that better provision might be made for its needs, the parish church of N, which had existed in that town from the most ancient times, was suppressed, and the Bishop assigned to the monastery all the revenues and tithes that had belonged to the parish. Thus, the parish being suppressed, the care of souls was entrusted to the parish priest of another nearby town. But with the passage of time, it seemed just that, since the monastery benefited from the revenues of the suppressed parish, it should also perform the duties of a parish. Two decrees of the episcopal Curia exist concerning this matter, one issued in the year 1266, and the other in the year 1442; the former assigned all the parish offices to the monastery, except for the administration of Baptism and Marriage, which two sacraments were administered by a secular chaplain appointed by the Abbot and the monks; the latter assigned the administration of all the sacraments to the Abbot and the monks, because experience had shown that secular chaplains did not adequately fulfill their duties. Pope Pius II, in a brief addressed to the Archdeacon of the cathedral church in the year 1460, ordered that, after hearing both sides and knowing the facts, he should confirm with Apostolic authority what had been done by the Curia; what actually happened at that time is not known; however, it is certain that from that time until the year 1786, the care of souls in those towns was provided by monks of the same monastery. In the year 1786, through an agreement between the Curia and the monks of that Kingdom, the monastery lost its parochial rights. For it had long seemed useful to the monks of that Kingdom to gather their students together in one place, who were engaged in the study of literature and sciences; they considered the monastery in question to be the most suitable place for this purpose; and this was done with the request and consent of Apostolic authority. But gradually, the monastery, due to the influx of other young men, coming

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from all sides for the sake of study, was transformed as if into a hostel.

[*Latin ed. p. 505*]

The parish numbered 505 souls, and it had come to pass that there remained no monks attached to the monastery, save for a few laymen bound to it by servile tasks. Furthermore, those who, by reason of their monastic vocation, were supposed to dedicate themselves to study, neglected and abandoned their parochial duties. The situation had worsened to the point that, in the year 1785, the Bishop, by decree, sequestered the monastery's property and revenues, entrusted the administration of its temporal and spiritual affairs to the canons of the cathedral, and ordered the monks, under pain of excommunication, to return to their own monasteries. These were the reasons that led to the aforementioned convention. In the convention, it was decided that the monks should relinquish the parish, assigning a dowry to it. The general studies were to be transferred to a certain college called *Collegium a S. Petro*, so that both the monastery and the aforementioned college, to which they were to move, would constitute a single body. This convention was confirmed by Apostolic authority; and the Ordinary granted the parish to the canon of the cathedral church as a secular benefice. However, after a short interval, due to the upheaval in the order of things in that kingdom, and the division of the kingdom into parts, the civil government, having expelled the monks, seized the buildings of the college and converted them to its own uses. Then, the monks, having lost the buildings of the college, petitioned the government to restore to them the parish of N, and the endowment assigned for it; they requested this for the reason that, having lost the buildings, they claimed that the convention was dissolved, and therefore what they had given should be returned to them. All of this was granted by the government, and the monks immediately returned to their former rights; however, in all of this, the authority of the Holy See did not intervene. Thus, matters proceeded until the year 1819, when the first monk-parish priest died. But the Bishop, deeply grieved by what had transpired, seized the opportunity of the vacancy of the parish, brought a case before the competent authority according to the Concordat of that place, and obtained a judgment against the monks, confirming the decrees of the convention of the year 1786; and the monks were again compelled to relinquish the parish, which from the year 1820 until the year 1865 was held by secular priests chosen by the Bishop.

[*Latin ed. p. 506*]

506 PARISHES. In recent years, the Monks of Munich have presented a petition to the Holy See, requesting the restoration of the parish and its associated properties. A summary of the arguments. THE RIGHTS OF THE MONKS. The Monks argued that the care of souls in the parish of N. had belonged to them from the year 1460 to the year 1786; that the union of the

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parish with the monastery had been established by Apostolic Authority under Pope Pius XI; and that the parish had ceased to exist in the year 1786 through a Convention by which the Monks had relinquished their rights over the parish, so that the building of the College of St. Peter might be built in its place. Therefore, they argued, since the aforementioned buildings had been lost through the actions of the government, their primary right to the parish of N. should be restored. For when a corresponding agreement fails, the original rights are restored; a principle that civil law recognizes as just. Furthermore, they argued that the judgment of the government at that time could not be challenged, since it had not been issued by a competent authority, nor had it been confirmed by Apostolic Authority; for the matter concerned not the alteration of the nature of the benefice, but a simple restitution to be made when the cause that had converted the benefice from regular to secular had ceased. However, if confirmation of that judgment by the Apostolic See were necessary, they now implored the Holy See to grant it, both out of justice and equity. Out of justice, because both the monastery and the corresponding right of renunciation were lacking; and out of equity, because the monastery had exercised the care of souls in that parish: for the Monks had fourteen confessors who were occupied with hearing the sacramental confessions of the townspeople and with preparing the Eucharistic bread, and who were also engaged in other parochial duties; furthermore, the prayers of the townspeople should be offered, as the Holy See requested. THE RIGHTS OF THE BISHOP. The Bishop, noting that the petition of the Monks was based on a shaky foundation, pointed out that the decree of the civil government could not be invoked, because it was issued by an incompetent authority; because it had not been confirmed by a subsequent judgment issued by a competent authority; and because it was unjust. And with regard to its injustice, he recalled the words of the Convention, which were not conditional, but stated that the rights of the monastery in the parish had been relinquished and renounced. And furthermore...

[*Latin ed. p. 507*]

The parish, numbering 507 souls, has repeatedly petitioned and declared that it cannot be vindicated, as if it were dismissed or relinquished under a condition. Furthermore, the Monachi claim that they have suffered a loss of respect; or that the church of St. Peter was attributed to them instead of to the parish; and therefore, that all buildings of that kind, taken by the civil government, rightfully belong to them. To this difficulty, the Bishop responded that the Monachi obtained the church of St. Peter through civil and ecclesiastical authority, solely by means of a convention which they entered into, in order to avoid penalties for neglecting their parochial duties; for if they were to lose everything, they retained those aforementioned buildings. This is the factual situation. However, it has been established

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in law that perfectly concluded contracts can be dissolved again, if the object of the contract perishes through the fault of one of the contracting parties, but not if it is lost by chance or through a force greater than which cannot be resisted. The Monachi, however, lost the buildings through the act or force of the Prince. Furthermore, there is no reason to grant any assistance from the Most Holy Pope, which the Monachi might request. For the Monachi assert that the secular clergy were negligent, but this cannot be demonstrated; nor have they ever been found worthy of any reproach; on the contrary, there exist records in which the Monachi have been severely reprimanded for neglecting the care of souls and have been subjected to penalties. Furthermore, the support of certain citizens, who demand this, should not be taken into consideration, especially since their names were obtained through contemptuous means; which would become apparent through the completed process by the Curia.

Doubts:

I. "Does it pertain to the validity of the Decree (civil N.) issued in the year 1806, so that there is a basis for the reintegration (of the Monachi) into the possession of the parish (N.) and its attached properties, in this case?"

II. "And to what extent should the Holy See be consulted for the confirmation of the Decree in this case?"

RESOLUTION.

The Sacred Congregation of the Council, having knowledge of the matter on February 19, 1870, decided to respond: To both I and II, negatively in all respects.

[*Latin ed. p. 508*]

508. CONCERNING PARISHES: I. It is futile to request from the Holy See that something be granted as a favor, when it has already been obtained without consultation from a civil authority concerning ecclesiastical matters. II. Indeed, one scarcely merits being heard by the Holy See, who, violating the sacred canons, seek ecclesiastical rights from an incompetent lay authority, and vindicate themselves thereby. III. A convention concerning ecclesiastical matters, properly concluded, is not dissolved, even if it subsequently turns out that the agreement was not made in good faith. IV. For the very nature of a legal transaction is that it is equivalent to a completed lawsuit and a res judicata, which is held as true; therefore, when the dominion of rights is transferred, whatever subsequently occurs (unless there is a grave and manifest error) pertains to the detriment or benefit of the contracting parties. V. In the present matter, there is no right for the Monks to have obtained the parish again through a transaction after having lost it; nor is there equity, since they did not establish the parish at their own expense from ancient times, but rather possessed it through

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grace and concession.

[*Latin ed. p. 509*]

FROM THE SACRED CONGREGATION FOR RITES OF NAPLES, OR PINNEN, CONCERNING THE BEATIFICATION AND CANONIZATION OF THE VENERABLE SERVANT OF GOD, NUNTIUS SULPRITII, OF THE DIOCESE OF PINNEN. We present the cause of the Venerable Servant of God, Nuntius Sulpritius, for consideration, primarily for this reason: that through him, a new model of virtue is being prepared, which the Christian youth can imitate. The faithful have had the illustrious Virgin and Martyr, Agnes, under whose patronage many institutions, especially those for young people, have flourished, and still flourish (1). Afterwards, the angelic Aloysius Gonzaga, beloved and especially esteemed by young people (1). Among these, Thomas à Kempis, celebrated for his piety at the beginning of the fifteenth century, wrote in his sermons, number 26, concerning the Blessed Agnes: "There she now rejoices with her most beloved spouse and with the holy angels, with the glorious Mother of Jesus, and with countless companies of virgins, arranged in the higher choirs of virgins, following the Lamb wherever He goes... Moreover, she has deserved to have this most fitting privilege on earth, so that the memory of her most blessed name may be perpetually preserved and devoutly celebrated in the Church, and may be magnificently honored by all the faithful of Christ. Indeed, the great and holy Doctors frequently commend her, excellently praise her, patiently proclaim her, and, as an example for all of us to love chastity, they recite the text of her passion, and exhort young men and virgins to love Christ with great encouragement." It is likely that no other Virgin, after the Immaculate Mother of God, has been spoken of with so many and such praises by both Latin and Greek Fathers, as has been the case with the Blessed Agnes, who is magnificently celebrated in all languages and in every rite throughout the entire Church, as is evident from the acts and documents which the Most Reverend and Right Reverend Dominic Bartolini has most learnedly collected and illuminated, and which he published in the year 1858 by the printing press of the Sacred Congregation for the Propagation of the Faith.

[*Latin ed. p. 510*]

510 NAPLES OR PENNE. Under its patronage is a group; whom Stanislaus Kostka and John Berchmans, among others, have admirably imitated, and whom the Church has already raised to the altars. But the Apostle Sulpritius has this particular characteristic: although he was extremely poor, and orphaned from childhood by both parents, he was subjected to harsh labors in the workshop of a blacksmith, and then afflicted by the pains of a severe illness, and he has a readily overlooked aspect of the lives of Christian young men, to whom he can truly be presented as a model. OUT-

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LINE OF HIS LIFE. The Apostle Sulpritius was born on April 1, 1817, in the town of Pesco-Sansonesco, in the diocese of Penne, which is located in the Italian regions of the Kingdom of Naples. His parents were Dominic Sulpritius and Rosa Luciani, people of honest character, but of poor condition. After being orphaned by his father, and with his mother entering into a second marriage, he came under the care of his uncle, Joseph, who subjected the young boy to hard work in his blacksmith's workshop, and his grandmother undertook to instill piety in his soul. The Apostle Sulpritius responded deeply to religious instruction, and from that time on, he valued nothing more than offering his prayers and diligently dedicating himself to pious works. Abstaining from childish games, he avoided the company of his peers, although he was often with them when the Most Holy Sacrament was brought to the sick. It was a comfort to him to hear the sacred hymns and to sing them, to attend the sacred ceremonies, where the example of modesty and piety shone forth; he frequently prayed in the church; and when he could not do so, he stood at the door of his home, facing the church. Eager to learn the truths of the faith, he devoted himself to this above all else. Simple in his manners, chaste in mind, he never did anything dishonest, and he always acted with integrity. He showed exceptional reverence to all those he considered to be in the place of his parents, and he gave obedience, which he rendered promptly to his father and mother. The workers in the workshop, in which he labored beyond his strength, also afflicted the young boy with insults and beatings, from which even his uncle did not abstain. In addition to this, he suffered from a wound on his leg, which caused him extreme pain due to bone decay. Because of this wound, which could not be healed, Sulpritius was finally sent to Naples, where he was received into the care and under the authority of the most noble man, Knight Felix Vochinger, in the Xenodochium of St. Mary, known as "of the People." Without changing anything about his way of life, while responding to the exceptional kindness of this man, he progressed to higher degrees of evangelical perfection.

[*Latin ed. p. 511*]

NEAPLES, OR PINNA. 51. The fame of his virtues spread widely, attracting many distinguished men to him. Meanwhile, the illness increased, and finally, with the addition of dropsy, he lay dying. Completely deprived of strength, and unable to raise his voice in any way, he lay there; but when the Holy Viaticum was brought to him, he immediately rose from the bed, and spoke to the approaching Christ with such vehemence that all those present were moved to tears. He himself, refreshed by heavenly food, and strengthened by the other aids of the Christian religion, fell asleep in the Lord on May 5, 1836. A large crowd gathered to see his body, which, for four days after his burial, remained with bright eyes, a ruddy complexion, and a flexible form; and even a vein cut and bled; and then it was placed in

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the ecclesiastical tomb. The fame of his sanctity, which he displayed during his life, increased after his death, and spread to distant regions, and the miracles wrought by God through his intercession further increased this. Concerning the virtues of the Servant of God. ON THE HEROIC FAITH OF THE SERVANT OF GOD. Rather than reading, let those who are passing by hear a summary of some of his virtues, as recounted by witnesses. And concerning the faith of the Servant of God, besides the very strong indirect arguments, which consist in his fervent charity towards God, towards the Saints, towards all the faithful, and even towards the unbelievers, so that they might come to the faith; in his constant and vehement desire that all might love God; in his great zeal to ensure that all the mysteries of the faith were taught; in the unusual fervor and joy with which he received the sacraments, prayed, and eagerly spoke and listened about divine matters; in the spirit of penance with which he delighted, in obtaining indulgences, and in other virtues, the exercise of which aroused admiration and compunction in others; all of which things serve as the foundation for the firmest faith, the following witnesses offer more explicit testimonies: Witness VIII testified: "I often heard him say: 'I would rather die than doubt even one article of the faith.'" Witness V recounted: "I observed in him a faith that was quite extraordinary, so much so that when he was speaking about divine matters, I would see him absorbed and as if outside himself; and once, when I asked him why he was so deeply moved, he replied..."

[*Latin ed. p. 512*]

512 In Naples, or Pigneno. "When hearing and listening to sermons, he responded: 'Because to me it seems like the things of Paradise, which are always pleasing to me, and bring me a joy beyond measure.' Testis IV testified: 'When he came to my school, where many of his classmates were, he not only used to instill the fear of God, but several times, full of zeal, he would rebuke them, saying: "You do not believe in Him." This happened when the Nuncio saw them acting childishly and inappropriately.' And many similar things.

CONCERNING THE HEROIC HOPE OF THE SERVANT OF GOD. Furthermore, omitting intermediate arguments, we present only these more explicit testimonies: Testis I testified: "Among the sermons about eternal goods or the deeds of the Saints, he often sighed and said: 'My God, when will I come to You so that I may enjoy You? How beautiful is Paradise!' Testis II: 'His hope was so extraordinary and alive that it constantly appeared in his words and actions: he longed for the moment when he would unite himself with Jesus Christ, as I heard from his mouth.' Testis IV: 'He often said to the sick (the Servant of God): "You do not hope in God, and how can you obtain the good of His grace?"' Testis IV: 'Speaking to me, he said: "I long to sit in Paradise near you... I firmly hold onto the Lord to spare me." Testis VIII: 'When questioned by me about his salvation, he responded: "I

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trust in the mercy of God. Whatever God wills!" Testis IX: 'Among the harsh speakers, he repeated: "When will that blessed homeland come? ... The time will come when all these things will cease. That blessed homeland will come! ... Let us all foster the hope of being in Paradise together."

CONCERNING THE HEROIC CHARITY OF THE SERVANT OF GOD TOWARDS GOD. Our Nuncio shone with extraordinary charity towards God: when reading testimonies about his charity, one could almost see not a young man living on earth, but one already enjoying divine glory; he was not seen to suffer from the torments of illness, and this was not just once or twice, but constantly. His love, however, excelled above all when receiving the Sacrament of the Eucharist. Testis II testified among many other things: "His thoughts were always directed towards God, as he did not speak except about the love of God, and every word always referred to God, and he desired to be with others in order to have the opportunity to speak about God and His attributes, about heavenly things; and he spoke about these things with such fervent spirit that he kindled the hearts of those who spoke with him; as it happened to me." And in conversations about divine things, he...

[*Latin ed. p. 513*]

513 IN NAPLES, OR PINNEN. "I saw him in ecstasy, and outside himself." Testis VII. "In the neck." – "Those who were with me in spiritual matters often noticed the Servant of God, rapt in divine love; and I recall, in particular, that on one occasion, during the act of sacramental confession, I saw him, his face illuminated, standing motionless and repeating these words: 'My God! My God!' and so, that I had to call him a third time, so that he would return to himself." He repeatedly got out of bed at night, hiding under the bed to pray, imitating in this matter almost Aloysius Gonzaga, whom he devoutly venerated, often reading about his life and recalling his deeds. Among other things, this was testified by Testis VIII. "When, moved by mercy at the bitterness of his sufferings, which he endured in his foot, I suggested to him that he abstain from penance, since, at night and especially in winter, he got out of bed to prostrate himself under the bed to pray, he nevertheless continued to do so. But when he saw me, he wept; and when I asked him why he was crying, he replied: 'I did not want to leave, I did not do this of my own will, but a force that I could not resist compelled me to stay there longer.'" The same witness continues: "The Servant of God was so horrified by sin that, if at any time, at night, he was tempted by the suggestion of the Devil, he would immediately light a lamp, if he had one, and read pious books, in order to distract his mind; and if he did not have a lamp, he would sit above the bed, elevating his mind in contemplation; and he would remain sitting like this for many hours, even in the bitter cold, covered only with a blanket. I sometimes found him trembling with cold, and when he told me the reason, I gently rebuked him, so that he would

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not torment himself so much, especially because of the illness he suffered. But he did not respond, but wept, and, with his hands joined, looked up to heaven, as I testified." With a single word, his vigilance in avoiding even a venial sin was so great that he was ready to undertake any spiritual exercise and to prolong vigils throughout the night with prayers and penances." Testis IX. "I also know that, when he went to Holy Mass, he would remain for a long time in the church, and both the Servant of God and my brother, who accompanied him, told me that he often fell into a trance before the altar, receiving the Sacred Host. When he returned home and I asked him why he stayed so long in the church, he replied: 'Dear [me],..."

[*Latin ed. p. 514*]

514 OF NAPLES OR PINNEN. "What can I say! To enter the church on a feast day is a 'beautiful, great comfort!' " Witness XX. "He always exclaimed: 'I want to be a great follower of the name of Christ. I want to be a saint, a great saint, and immediately a saint.' To avoid prolonging this matter, I will say briefly: when he stood before the altar, his face shone wonderfully, he showed the greatest piety towards the Blessed Virgin, he constantly neglected the discomforts of illness because of his works of piety; he was devoted to the angels, attentive to the reading of the lives of the saints, especially St. Aloysius Gonzaga; he aroused in everyone the love of God; he desired above all to unite himself with God. OF HEROIC CHARITY TOWARDS NEIGHBORS. He instructed boys in the faith, and as far as he could, he helped the poor, even though he himself was poor. In the hospice, supported by a crutch under his arm, he attended to all the sick, encouraging them all to Christian faith and piety, applying medicines with his own hands to the sick; he deprived himself of his own meager food in order to help others, and he strove to comfort all who were suffering. Witness XX recounts among other things: "When a messenger was at my house, saying that Anthony had been struck by a fever, he was saddened, and he prayed to the Lord that the fever might pass from Anthony to himself; indeed, Anthony was cured, and he himself was struck by the fever." Witness XI. "His charity towards his neighbors was admirable: he desired that all might attain eternal salvation, and he often said to me: 'Let us think about our eternal salvation and despise the things of the world, because all things pass away.' When he was poor, if he had anything within his power, he gave it to the poor, repeating with sorrow of mind: 'I wish I could help the poor.' Witness VII. "If, at times, a messenger came to him asking for a stipend, and he had nothing to give, he said: 'I have nothing else, and immediately he knelt down and recited the Our Father, Hail Mary, and Glory Be.' He abhorred detraction, rebuked those who detracted, and he hated those who did him wrong; he offered daily prayers for the souls of the dead. After the testimonies concerning the theological virtues, which we have discussed, follow in the Summary Process testimonies concerning

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the cardinal virtues, which are indeed most outstanding; especially the testimonies concerning his chastity and his singular fortitude in patiently and cheerfully enduring serious inconveniences and torments, whether in the workshop at Ferrara or in the hospice, due to a disease of the bones, which ceased with his death.

[*Latin ed. p. 515*]

NEAPLES, OR PINNA. 515. Hence, equally remarkable testimonies followed concerning the supernatural gifts with which the Apostle was endowed in life; also, concerning his sanctity in life, his precious death and the gathering at his funeral; concerning his sanctity after death; and concerning the numerous miracles wrought after his death through his intercession, which are recounted by witnesses with firm conviction. A concise summary. OBSERVATIONS OF THE REVEREND FATHER, PROMOTER OF THE FAITH. As is customary, various observations have been made, but those virtues of the Servant of God which pertain to these matters are easily recalled. Indeed, the Promoter observed that the Servant of God was endowed with the virtue of humility: he endeavored to demonstrate this from the words of witnesses who recounted certain statements made by the Servant of God, which the Promoter considered to be contrary to humility. For example, Witness II recounted that he had spontaneously learned from the Apostle the following: "After receiving Holy Communion, while giving thanks to God, I was afflicted by an internal convulsion, which produced in me delights and spiritual sweetness which I could not express." And he recounted that the Apostle had said this with a smiling face. And the same witness recounted these words of the Apostle, which he had spontaneously uttered: "Anthony, after receiving Holy Communion, I fell to the ground before the altar, and when asked the reason, I replied: Who can tell you what I feel so deeply?" Furthermore, the Apostle, when asked by Witness XX why he concealed his head with a cloth while lying in bed, replied: "Be at peace, for I enjoy such happiness that it cannot be expressed." Witness XXI, who at that time was being initiated into the sacred orders, testified as follows: "I remember that in the final moments of his life, while I was speaking to him about paradise, he replied to me: 'I am amazed! What can you know about paradise?' And I interpreted these words as meaning that he himself was about to depart for paradise, in order to enjoy all those things that I was suggesting to him." Furthermore, the Promoter observed that our Apostle was deficient in the virtue of charity towards his neighbor: he endeavored to demonstrate this from the words of witnesses who reported what they had heard from the Apostle himself about his uncle; for the witnesses recount that the Apostle recounted how he had been treated in the workshop at *Ferraria* by his uncle and others; namely, that he had

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been subjected to a very grievous labor, which...

[*Latin ed. p. 516*]

516. In NEAPOLITANA, or Naples, he could not bear his uncle's harsh treatment, and therefore, because he was unequal in strength, he was cruelly mistreated by his uncle. He had been repeatedly sent at night to the neighboring towns during the cold winter, through the snow, to collect money, without any consideration for the danger of wolves. After his grandmother's death, he, suffering from a foot ailment that caused him to limp, went to ask for wages, although he said this with a smiling face. Furthermore, he claimed to have been beaten, and other similar things happened to him in the village. Conversely, his uncle and some other witnesses denied these things, although they all admitted that his uncle had treated him harshly at times. From these testimonies, it seemed that our witness was either a detractor or a slanderer, or at least a liar.

RESPONSES OF THE ORATOR. The Orator, in order to protect himself, although it was not necessary, first recited the rules, which must be kept in mind in the first place in this cause, as they are found in the work on Canon Law, I, 2, chapter 36, paragraph 15: "An obstacle suitable for delaying the signing of the Commission must be such that it cannot be overcome with a single glance in the formal discussion of the case; and it must be such that it is similar to a peremptory exception, which prevents the introduction of a lawsuit in civil cases." And in I, 2, chapter 41, paragraph 4: "If the fame of true sanctity is fully confirmed by the words of some witnesses, but there are also witnesses who recount things contrary to this fame, or who testify that the opinion of sanctity or true martyrdom is by no means justified, then the reasons for these statements must be considered, and the circumstances must be examined so that a just judgment can be rendered, either in favor of or against the fame of the saint." Having stated these things, he thoroughly refuted both objections and reduced them to nothing. And indeed, with regard to the first objection, he showed that nothing could be inferred against the humility of the witness, if the reasons for his statements and the circumstances were considered, which were nothing other than the purity of his mind, simplicity, fervent love for God, and the duty to satisfy the one who was asking. For these are the words of the witnesses: "He answered humbly—with the greatest simplicity of mind—when asked by me, he answered humbly—and his face showed a state of distress: and other similar things, which provided the Orator with an opportunity to conclude: "Are not these the very things that have been brought up so far?"

[*Latin ed. p. 517*]

NEAPLES, OR PINNEN. 517 "How many declarations and arguments of fervent charity did that angel, as they called him, present? Charity moved

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his lips; and he could proclaim the love of God, and he felt what he said (St. Augustine, Tractate 26 on John). This happened to many other Saints, whom we could enumerate in a long list. I will add one thing: nothing is so far removed from vanity as the theme of these sermons of the Servant of God, since they were about the love of God, and all things are vanity except to love God. - Do not be surprised, because God is accustomed to prepare his sweetness for the poor! And, as Paul testifies, no human being has been given to know and explain what God has prepared for those who love him. But as if these things were not enough, the Orator recalled testimonies of the heroic humility of the Servant of God. Witness I testified: "I always knew him as a young man of great humility, who considered himself the least of all... The Servant of God never spoke a word in his own praise, nor did he ever boast of the virtues he practiced; and if others praised him, he humbled himself, saying: 'All is the work of divine mercy.'" Witness III: "He never boasted of himself or his good works, which I observed with the greatest satisfaction of my soul... His humility was such that it could not be surpassed in any young man of his time; I can say that his humility was perfect, and therefore heroic." Witness IV: "When others praised him, calling him 'the Angel of God,' he would humble himself, saying: 'I am a poor sinner, and everything is due to divine mercy.'" Witness XII: "He constantly concealed, and with all diligence even, his almsgiving, his continuous prayers, and other virtues, as I saw and heard." To dispel another observation, which at first glance seems to be of some importance, the Orator turned his attention to the matter, and so thoroughly examined it that, on every occasion, the truth of the words of the Servant of God shone forth, his ingenuousness and simplicity, and his mind, completely free from any detraction, and the martyrdom that that orphan endured in the *ferraria*! Lest all these things seem to pass by in silence, I will add this. Those very witnesses who recount what the "Angel" endured under his uncle in the workshop, add these words: "He laughed."

[*Latin ed. p. 518*]

518 In NEAPOLITANA, seu PINNEN, dicebat – cum simplicitate et lenitate – ratione fiduciae quam Nuntius in me habebat – non ad inutiles querimonias movendas, prompto humillimoque animo, cum filiali confidentia – loquens mecum de huiusmodi factis, ostendebat nihilominus in eum (avunculum) obsequium et amoris affectum. Verum est enim quod obloquentis et detrahëntis est adversum animum ostendere, querelas cedere, et moleste ferre memoriam acceptarum iniuriarum. Et in hoc proprie charitatis offensio invenitur; secus, innocens habenda est manifestatio aerumnarum, quae in ingenuo adolescente ideo facilis est, quia pueri proximo velle malum nesciunt. Inde Orator, data notione detractionis ex S. Alphonso et S. Thoma, ostendit nullimode in praesenti themate locum habuisse detractionem, quum animus laedendi penitus

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deesset. Atque inde testium serie iterum ostendit quam alienus esset Nuntius a voluntate detrahendi; quum contra, nihil diligentius studuerit quam aliorum defectus toleratas a se iniurias iugiter obtegere. Praeterea observavit Orator, indolem asperam avunculi fuisse in eo oppido notoriam, quam omnes faterentur oppidani illi; quod quidem detractionem iam excluderet. Et ad rem retulit verba testis XX, qui haec testatus est: « Ad confirmandam patientiam Servi Dei in eius patria depono quod mihi scripsit in epistola Pro-Rector Seminarii Theatensis die 27 Aprilis 1844 in haec verba: Locutus sum (iniquus Pro-Rector) cum viro probo et religiosissimo oppidi Pesco-Sansonesco, atque eum sciscitatus sum de sancto iuvene, et mihi respondit: licet esset natalibus obscurus, tamen dum in patria erat reputabatur ut exemplar patientiae et sanctae submissionis inter vexationes et crudelitates eius qui eum custodiebat ». Quoad iactatum mendacium et calumniam, animadvertit Orator, eam argui ex testium discrepantia, quae in inquisitionibus passim reperitur; ideoque inspiciendum esse pro quo militet veritatis praesumptio. Porro in praesenti themate, praesumptionem veritatis pro Nuntio militare. Qui enim ad integrum vitae curriculum totus fuit in virtutum et christianae heroicitatis assecutionem, quique charitate plenus studiose cavit a minimis etiam, quae quomodocumque proximi nomen laederent, qui nec sub obtentu maximi boni minimum protulisset mendacium; iis praeditas qualitatibus est, ut ei enarranti plena sit fides adhibenda. E converso, qui contradicit, quamquam non omnino con-

[*Latin ed. p. 519*]

NEAPLES, OR PINNEN. He had testified that he was the uncle, who was driven to manifest his own disgrace, and who was neither compelled to betray himself, nor "was compelled to say testimony against himself." With this argument of presumption established, the Advocate presented a series of witnesses, who testified from their own knowledge and from the knowledge of others – about the beatings, the curses, the lack of food, or generally about the cruel manner in which the uncle treated Nuntio. But after carefully considering and examining the testimonies, the Advocate observed that no discrepancy was found: for it is not surprising that the most grievous torments should be the same for a boy of a most gentle and delicate nature, which would be insignificant for a man accustomed to and hardened by hard labor. Such was the uncle. And other witnesses testified that the uncle had treated Nuntio with a certain harshness: for this harshness was a very grievous affliction and almost a tyranny for Nuntio; concerning which matter, we have ample and abundant testimony from twenty witnesses, which it pleases us to recount in the vernacular language: "Through earning his bread, he was entrusted to a maternal uncle, Domenico Luciani, of a harsh and unsympathetic disposition, a blacksmith, from whom he received rather mistreatment and insults;

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which were multiplied by the wickedness of the apprentices in the workshop, so that all conspired to rule the innocent young man with harshness. In these circumstances, the Servant of God demonstrated his patience and resignation, never complaining of the insults he suffered, nor of the sparks of fire that flew into his face and onto his feet while he was working the heated iron; since he was constantly exposed to this manner. I know this from the account of the good old man Galante, now deceased." But this old man, whose name was Galante, was a townsman of Nuntio, and worthy of respect for his age and faith. The same witness, when asked whether Nuntio was sent at night through dangerous places to collect money, confirmed this, adding: "Such things were also told to me by several people from Pesco-Sansonesco, and especially by the deceased Galante and by another former paternal uncle of the aforementioned Nuntio, named Francesco." And concerning the sparks and fragments of burning iron that fell upon Nuntio's bare feet, he said: "Indeed, the marks produced by the hot splinters of iron, and by the burning coals that fell upon them, were seen on his feet and legs, when in his homeland he worked the bellows in the blacksmith's shop of his maternal uncle, which caused the wound and then the decay of the bone."

[*Latin ed. p. 520*]

520 FROM NAPLES. A Doubt. "Whether the Commission for the Introduction of the Cause [for canonization] should be signed in this case, and with regard to the effect of which we are speaking." RESOLUTION. The Sacred Congregation of Rites, having considered the matter according to custom on July 9, 1859, decided that the Commission should be signed, if it pleases the Holy See. However, having reported this matter to the Most Holy Father on the 14th of the same month, the decision was confirmed. With this Resolution issued, and with the Decree, letters were sent to the Most Reverend Archbishop of Naples, which are called "Remissorial Letters," to carry out another, smaller process, and to render a judgment regarding the cult, which had never been exhibited. However, the judgment rendered by the Neapolitan judge was confirmed by the Sacred Congregation with the following Decree. DECREE. "Being presented by the Reverend Father Canon James Arrighi, Postulator of the Cause for the Beatification and Canonization of the Venerable Servant of God, Nuntius Sulpritii, the Most Eminent and Reverend Cardinal Cosimus Corsi, in place of and acting as the Most Eminent and Reverend Cardinal Aloysius Buio, Promoter of this Cause, the following doubt was presented in the Ordinary Meetings of the Sacred Rites, held today in the Vatican: Whether the judgment of the Reverend and Most Reverend Cardinal Archbishop of Naples, Delegate for the aforementioned cult of the Venerable Servant of God, which had never been exhibited, or regarding the decrees of Pope Urban VIII, should be confirmed in this case and with regard to the effect

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of which we are speaking? Furthermore, the Most Reverend and Reverend Fathers, entrusted with the preservation of the Sacred Rites, having carefully considered all matters, and having heard the voice and writings of the Reverend Father Peter Minetti, Promoter of the Holy Faith, decided to respond affirmatively, that is, that the judgment should be confirmed, on March 5, 1870. Subsequently, these matters were faithfully reported to the Most Holy Pope Pius IX by the undersigned Substitute of the Secretariat of the Sacred Congregation of Rites, and His Holiness...

[*Latin ed. p. 521*]

NEAPLES, OR PINNA. 521. The Sacred Congregation has deigned to declare that everything contained herein is to be considered valid and confirmed. "On the 10th day of the same month and year." C. The Bishop of Porto, and Cardinal S. Rufinae Patrizzi, and the Reverend Canon Prefect of the Place, Dominic Bartolini, Secretary of the Sacred Roman Congregation, Joseph Ciccolini, Substitute. FROM WHICH WE GATHER: I. In the causes of Servants of God, the first judgment of the Holy See, which is issued regarding the introduction of the cause, in which the process constructed by the Episcopal authority is reviewed, and especially the reputation for sanctity, must be handled with great caution and accuracy, so that obstacles that may arise to prevent the cause from proceeding are carefully considered; indeed, it may almost seem superfluous to pursue the cause to further stages. II. The judgment given for the introduction of the cause, besides the title by which the Venerable Servant of God is presented to the Church, only grants the Postulators of the cause the faculty to proceed with the cause in the remaining stages of judgment, by the authority of the Holy See. III. The first and immediate step is the faculty to prepare another, smaller process, which is called the "process of non-cult," so that a judgment may be given, whether the Venerable Servant of God has been publicly honored with ecclesiastical worship. IV. After such a judgment, at the care and urging of the Postulator of the cause, the Holy See proceeds to the solemn judgment of Beatification (1). (f) The Deacon Sulpritius is the one who seems to be acting to advance the cause, for more and more miracles are recounted that have occurred to those who invoke his help and patronage; and thus, the cause may now be advanced before the Holy See for a judgment to be given regarding Beatification. However, in the present situation, it is reduced to the necessary expenses for constructing Apostolic Processes and for the cause to be examined in a formal judgment regarding the heroic virtues of the same, and for the recognition and confirmation of miracles to be carried out by the Holy See. Since this cause proceeds with the help of the offerings of the Faithful (for no one is rich to whom it would be a concern to pursue this cause), we strongly commend it to our readers. Those who wish to make an offering, or to promote offerings, or even to obtain a relic of the Venerable Servant of God, should write to the Reverend

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Canon John Ponzi, Rome, at the Almo College of Capranica.

[*Latin ed. p. 522*]

FROM THE SECRETARY, A SHORT APOSTOLIC LETTER, whereby an Apostolic Visitation is ordered, so that the Order of Armenian Monks of Mount Lebanon, called after Saint Anthony, may be restrained within its duties. It is already publicly known that a sedition has arisen among some of its faithful, who follow the Armenian rite in Constantinople, against the legitimate Armenian Patriarch of Cilicia, residing in Constantinople, through solemn Apostolic Letters entitled "Reversurus" and "Commissum," which we presented in Volume III, pages 386 and 394, and furthermore, concerning other preceding events, see there, pages 337 and following. In the preceding volume, page 444, we presented Apostolic Letters entitled "Non sine gravissimo," by which the Archbishop of Thyatira, Anthony Pluym, appointed Apostolic Delegate, was ordered to proceed immediately to Constantinople to suppress the sedition as far as he could. But it is worthwhile to present to our readers the other Apostolic Letters, which concern the Armenian monks called after Saint Anthony, who also reside in Rome, so that they may see how the Holy See has proceeded. For it is impossible to obtain certain information from those newspapers which are always prepared to report any news, whether true or exaggerated or false, and these newspapers, when it is a matter of attacking the Apostolic See and its authority in every way, seem to be deliberately biased. Therefore, a sedition having arisen in Constantinople against Patriarch Anthony Peter Hassun, with the consent, indeed, the encouragement, of certain clerics and monks, who number almost forty, it is astonishing that among some futile reasons put forward, it is also alleged that the Patriarch had not obeyed the dispositions of the Holy See, as he ought to have done, especially those established in the Bull "Reversurus." It is established that the Armenians...

[*Latin ed. p. 523*]

APOSTOLIC LETTERS 523. The monks of Saint Anthony residing in Constantinople were not exempt from the fomenting of sedition, who for a long time had stirred up frequent and protracted disputes and complaints against the Patriarchs of Cilicia; and who had introduced innovations into the constitutions of their Order, without the knowledge of the Holy See. All of these things constituted a cause not only just but also very serious, by which the Holy See, if it should fulfill its office, would be compelled to visit that monastic Order with the authority of the Apostles, so that, according to the sacred canons, they might be restrained within the duties of a monk. This was indeed done through the following Apostolic Letters. To the Venerable Brother Anthony Joseph, Pius PP., Archbishop of Tyanen. IX. Venerable Brother, Greetings and Apostolic Benediction. "Roman

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Pontiffs have always held the families of regular religious orders, which are so useful and an ornament to the Lord's field, in great esteem, and therefore have been most concerned about this part of the Lord's field, so that, scarcely knowing a hidden enemy to sow tares among the wheat, and small foxes to destroy flourishing palm trees, they have applied all their efforts to uproot and destroy whatever might hinder the abundant and excellent fruits of good seed. "In the past century, the regular Order of the Armenian Monks of Saint Anthony was established in the mountains of Lebanon, to carry out sacred missions throughout the Patriarchate of Cilicia, and to be entirely separate, not only from secular affairs but also from ecclesiastical offices and dignities, and to devote itself entirely to this, and to nothing else. However, recently, very serious controversies arose between the monks of Saint Anthony and the Patriarchs of Cilicia, which have intensified more or less in these recent times; and the constitutions of this same Order have been gradually changed, which the Congregation entrusted with spreading the Christian name had ordered to be observed, until something else should be decided about them; and a few years ago, very grave matters arose within the Order of Saint Anthony, without the knowledge of the Apostolic See,..."

[*Latin ed. p. 524*]

524 APOSTOLIC LETTERS: A new innovation has been introduced in the Holy See. The office of Abbot General, which the constitutions of the aforementioned Order had defined for a period of three years, has been extended for life, without any request for permission from the Holy See, and the administration of the Church of Antioch has been added to that office. "With this title, and with an Episcopal character and dignity, the Venerable Brother Placidus Kasangian was raised; and the aforementioned Congregation, having disapproved of this action, has ordered him to remain in that office, with the indulgence of the Holy See. Meanwhile, a thorough investigation into the state of the Antonian Order was undertaken, and therefore the aforementioned Abbot was ordered to present the current rules and constitutions, and to accurately report everything that needed to be known. However, since at that time the Patriarchal Synod of the Armenians was to be held in Constantinople, in which the matter of the Monks was also to be discussed, it was deemed advisable to await the outcome of that Synod before taking any action. "Recently, however, serious dissensions and disturbances against the legitimate authority of the Venerable Brother Anthony Peter IX, Patriarch of Cilicia, have arisen in Constantinople, from some laymen, clerics, and monks, to the point that the orders of the same Venerable Patriarch are disregarded, the commemorations which are customarily made in the holy sacrifice of the altar and in the divine offices are omitted, and the Brother Joseph Arakial, Bishop of Ancyra, who, with the approval of the Apostolic See, exercises the vicariate

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power of the aforementioned Patriarch in Constantinople, is disrespected; and his mandates, and even censures, are stubbornly disregarded, and a certain frivolous form of appeal to the Holy See is used, so that the rebels might avoid the correction of that Antistite; and not a few of the Antonian monks, to the admiration and scandal of many, have agreed with these actions. "Given these circumstances, We, mindful of the safety and well-being of all the faithful through Our Apostolic ministry, and moved by paternal charity, have considered it necessary to offer some remedy for these evils. Therefore, together with Our Most Reverend Brothers, the Cardinals Prefects of the Propagation of the Faith and the Affairs of the Oriental Rite, after a thorough and diligent examination of all matters, We have decided to, Venerable Brother, whom on this very day, through Our Apostolic Letters, We have released from the bond by which you were held to the Church of Nicopolis, and with the fullness of Our Apostolic Power, to raise you to the Archiepiscopal See of Tyanen-

[*Latin ed. p. 525*]

APOSTOLIC LETTERS 525: We promote you to the office of Apostolic Visitor in the territories of the infidels, and We declare and establish you as the Apostolic Visitor of the aforementioned Order of the Armenians, and of all its monasteries and hospices wherever they may exist. We grant you all the necessary and appropriate faculties for the fulfillment of this office. Furthermore, Venerable Brother, We grant you the power to delegate, if it should be necessary, suitable and well-approved persons to this office. "Moreover, so that no impediment may arise in any way to this Apostolic Visitation, with the advice of our aforementioned Venerable Brothers, We wish and command that the Venerable Brother Placidus Kasangian, who until now, by permission and at the will of the Holy See, as mentioned above, has held this office, relinquish the office of Abbot General of the aforementioned Order and cease entirely from it." Therefore, We command, in virtue of holy obedience, to all the monks of the aforementioned Order, and to all those to whom it applies and will apply, that you receive and accept you as the Apostolic Visitor chosen by Us according to the tenor of this document, and that you be ready and obedient in all things pertaining to this office, and that you reverently receive and effectively fulfill your salutary admonitions and commands; otherwise, We shall consider and declare valid any sentence or penalty that you may rightly inflict upon the rebellious, and We shall ensure that it be inviolably observed until due satisfaction is rendered, by the force of Our Apostolic Authority. "Notwithstanding the Apostolic Constitutions, and also the laws of the same monastic Order, and any other special and individual provisions worthy of mention and derogation to the contrary." "Given at Rome, at St. Peter's, on the twenty-third day of February in the year of Our Lord 1870, in the twenty-fourth year of Our Pontificate." N. CARD. PARACCIANI CLARELLI. Such

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an Apostolic Visitation, both in Constantinople and in Rome, was rejected by the aforementioned monks in both places. The Prelate Pluym had delegated to Rome, by special authority, the Reverend Father Ignatius, of the Infant Jesus, from the Congregation.

[*Latin ed. p. 526*]

526 APOSTOLIC LETTERS: Concerning the foundation, which derives its name from the Passion of the Lord, a most praiseworthy man, who, having considered all aspects of urban and rural affairs, instituted that small community of monks residing in Rome, to diligently fulfill the Apostolic mandates; but in vain. Then the Most Holy Father, admitting the renunciation of Father Ignatius to complete this task, ordered that, in the meantime, the then Prelate Placidus Kasangian, who, through the indulgence of the Most Holy Father and at the request of the Holy See, still held the office of General Abbot, and who was present in Rome for the sake of the ecumenical Council; and Father Seraphinus, Abbot of the religious house existing in Rome, should withdraw to another religious house, and there, consulting their own conscience, devote themselves to spiritual exercises. However, in order to carry out the decreed Visitation, the Most Holy Father deigned to delegate another to do so, as is evident from the following Apostolic Letters. To the Venerable Brother Anthony Mary, Bishop of Fabriano and Matelica, PIUS PP. IX. VENERABLE BROTHER, GREETINGS AND APOSTOLIC BENEDICTION. "The nature of the Apostolic ministry demands that we exercise particular care over the Regular Orders; and we must diligently take care that they do not deviate from the right path; and those who do deviate, we must effectively bring back to it. For this reason, by Our Apostolic Letters, which were dispatched under the seal of the Fisherman on the twenty-third day of February of this year, and which, for the purposes of the present document, we wish to be considered as inserted here, We have decreed an Apostolic Visitation of the Order of Armenian Monks of Saint Anthony, for certain reasons expressly stated therein; and by the same letters, We have appointed the Venerable Brother Anthony Joseph Pluym, Archbishop of Tyana, Our Delegate in the City of Constantinople, as the Apostolic Visitor of the entire Order mentioned above, and We have also granted him the power to delegate other persons he deems suitable to assist him in this office. And so that the authority of the General Abbot might not in any way hinder such a Visitation, We ordered that the Venerable Brother Placidus Kasangian, who had hitherto held this office through Our indulgence and at the request of the Holy See, should withdraw from the office of General Abbot of the aforementioned Order and completely cease from it."

[*Latin ed. p. 527*]

APOSTOLIC LETTERS 527 « Indeed, it would have been desirable that

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the same Venerable Brother Anthony Joseph had undertaken the Apostolic visitation in Rome; but very grave and never sufficiently reprehensible disturbances, by which the Armenian Church of Constantinople was already being torn away, urged him to return there as soon as possible, for the good of the Catholic cause. Therefore, for the aforementioned visitation to be carried out in this blessed City, I have delegated his duties and powers to my beloved son, Father Ignatius from the Infant Jesus, a professed priest and General Consultor of the Congregation, to whom the title of the Most Holy Cross and Passion of Our Lord is given. Since he requested, for reasons known and approved by Us, permission to relinquish the aforementioned office of delegate for the visitation, We deemed it necessary to assent to his wishes; and therefore, We admit and accept this relinquishment by virtue of the present Letters. « Now, since it is absolutely necessary that the aforementioned Apostolic visitation of the Antonian Armenian Order be carried out in Rome, and new arguments for this necessity arise daily, therefore, with the advice of Our Most Reverend Brothers, the Cardinals of the Congregation for the Propagation of the Faith, concerning affairs of the Oriental Rite, We assign you, the aforementioned Venerable Brother Anthony Joseph, to the aforementioned work of the visitation, and We constitute you a Visitor, so that, with Apostolic authority, you may visit the religious family and the house with its continental church of the aforementioned Armenian Monks of that Order, which is in this blessed City of Ours, in spiritual and temporal matters: and for this reason, We grant and bestow upon you, by virtue of the present Letters, all the necessary and appropriate powers. We command that, just as, by Our preceding Letters, the Most Venerable Brother Placid has entirely ceased from the office of Abbot General; so too, from this moment, all offices cease for all those who are in that same house, whatever their name may be: and no canonical authority whatsoever, either in spiritual or temporal matters, shall exist there that does not proceed from you. Furthermore, it will be incumbent upon you to exercise the government and administration of that same house, either through yourself, or by establishing a Regular Superior there: whom We decree to possess only those powers and no others, which you deem fit to grant him. « We therefore command, in virtue of holy obedience, to all and each of the monks of that Order, of whatever rank and dignity, even if they are bishops or archbishops, in the aforementioned.

[*Latin ed. p. 528*]

528 APOSTOLIC LETTERS concern themselves with religious houses, and it may happen that they concern themselves with them in the future, and to all and each to whom they apply or will apply, that they receive and admit You as Our chosen Apostolic Visitator, and that they be ready and obedient to You in all things pertaining to said office, and that they reverently receive and effectively fulfill Your salutary admonitions and com-

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mands. And if the contrary should occur, We wish that You, Venerable Brother, using the power which We grant to You by these present letters, proceed against those who are disobedient and rebellious, of whatever rank and dignity, even if they are bishops or archbishops, as is right: for We shall consider the sentence or punishment which You duly inflict upon them to be valid, and We shall ensure that it be inviolably observed until due satisfaction is rendered. "We will, We command, and We order this, notwithstanding the Apostolic Constitutions, and also the rules, constitutions, statutes, decrees, and conventions, even those confirmed by oath, of the aforementioned Order, and also the privileges, customs, and other matters, although worthy of special mention and derogation, which may be contrary to this. "Finally, We wish that to the transcripts or printed copies of these Letters, signed by the hand of Our beloved son, the Cardinal Prefect, and also the beloved son, the Secretary of the aforementioned Congregation of Propaganda Fide for Oriental Affairs, and bearing the seal of the same Congregation, the same faith be given as would be given to these present, if they were exhibited or shown. "Given at Rome, at St. Peter's, under the Fisherman's Ring, on the 5th day of April, 1877, in the 24th year of Our Pontificate." N. Card. PARACCIANI-CLARELLI. The Most Reverend and Eminent Bishop Valenziani, with all care and solicitude, endeavored in every way to persuade them that the Apostolic Visitation was being undertaken for no other reason than to ensure that they fulfilled their duties, and that they properly followed the rules and discipline of their monastic Institute; and not to suppress them or the monastic Order: nor did he fail to remind them of the particular reasons why, if other ecclesiastical institutions of this kind...

[*Latin ed. p. 529*]

APOSTOLIC LETTERS 529 i • They ought to obey the Apostolic mandates, and therefore would be bound by a stronger title. But all these things equally came to naught. The Most Holy Father's order was not a mandate for execution, whereby the Prelate Kasangian and Father Hanemian should have withdrawn to another religious house where they might temporarily dedicate themselves to spiritual exercises; nor was it the Apostolic Visitation, whereby they were seeking assistance from those who would favor the rejection of that same Apostolic Visitation. Such audacity and such rejection would have deserved immediate and most severe punishment; and it is to be attributed to the long-suffering of the Holy See, if it has not yet occurred. Therefore, while they remained in their obstinacy, three warnings were given to them at successive intervals, which were also extended. But after these canonical warnings proved fruitless, the Apostolic Visitator finally deemed it necessary to inflict canonical penalties upon them, and to interdict the religious house and the church within it, through the following Decree. DECREE: Anthony Mary, by the grace of God and

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of the Apostolic See, Bishop of Fabriano and Matelica, Apostolic Visitator of the Order of Armenian Monks of Saint Anthony in the City, etc. "After the Most Holy Lord Pope Pius IX, of happy memory, by Apostolic Letters, whose beginning is 'Of the Apostolic Ministry,' which were sent under the Fisherman's seal on the fifth day of this month, entrusted to us the office and the power of carrying out an Apostolic Visitation of the religious house of the Armenian Monks of the Order of Saint Anthony, existing in this venerable City, we did not fail to visit those same monks, and to inform them of what had been entrusted to us by the Most Holy Lord. But Father Seraphinus Hanemian, who holds the position of Superior in the aforementioned house, and some other monks, of whom we had the opportunity to speak, neither gave us a hearing, nor did they wish to receive the Apostolic Visitation. Therefore, having sent to them copies of the Apostolic Letters, we urged them again in writing to obey the Apostolic mandates; which also came to naught. These things are recorded in Volume V, page LVIII."

[*Latin ed. p. 530*]

530 DECREE: Although these matters have been grave and distressing, they have not occurred without warning, nor unexpectedly. Indeed, these monks had previously, not long before, resisted the Most Reverend Father Ignatius from the Infant Jesus, the Apostolic Visitor delegated to that religious house. Moreover, the Most Reverend Father Dominic Placidus Kasangian, consecrated with the title of Antioch, who was already the Abbot General of that Order, and Father Seraphinus Hanemian, mentioned above, did not hesitate to resist the command of the Most Holy Lord, who had ordered them to leave that religious house and go to other religious houses, because they had not accepted the aforementioned Apostolic visitation, so that they might dedicate themselves to spiritual exercises according to the will of His Holiness. "Given these circumstances, it was no longer possible to hope that these monks would be brought back to good order by paternal exhortations and greater leniency; and therefore, it was necessary, albeit with regret, to proceed with ecclesiastical penalties and censures. However, so that those men would not lack any opportunity for reflection and repentance, we did not fail to warn them, not once, but again and a third time, observing the canonical order and procedure, to obey the aforementioned Apostolic Letters, and to signify to us in writing, clearly and simply, that they were ready and prepared to receive our Apostolic visitation. "But these monks, while professing reverence for the Apostolic See in words, stubbornly resisted our warnings and Apostolic commands, and, having given written protests, declared that they could not comply with these matters. This deplorable state of affairs necessitated that we inflict canonical penalties. Therefore, exercising the authority granted to us by the Most Holy Lord, we hereby suspend Father Seraphinus Hanemian, who held the position of Superior in the aforementioned house, who had

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already been suspended from divine offices in Constantinople and publicly declared irregular there; and we also suspend all and each of the monks and religious men of the Armenian Order of Saint Anthony residing in the aforementioned religious house, of whatever rank, as well as the religious house itself and the church within it, under an ecclesiastical interdict; and we declare that the removal of this interdict is reserved to the Most Holy Roman Pontiff. "Furthermore, we exhort these monks and religious men again and again, and we earnestly implore them in Christ Jesus, our Lord, to turn away from their wrong path and to comply with our, indeed, Apostolic commands.

[*Latin ed. p. 531*]

DECREE 531 concerning obedience. If they persist in their obstinacy and rebellion, let them know that We shall proceed to more severe and graver punishments. And thus We say and declare, ordering that this Our Decree or judgment be legally notified and made known. "Given in Rome, from Our dwellings, on the 28th of April, 1870." In place of the seal, ANTONIUS MARIA, Bishop of Fabriano and Matelica, Apostolic Visitator. "In Rome, on the twenty-eighth day of the month of April, 1870. A similar copy of this original document was delivered to Mr. Angelo Ruit, the gatekeeper, at the Venerable Monastery of St. Anthony of the Armenians, located on the street commonly called St. Office, number 1, and another copy was affixed and published at the doors of said Venerable Monastery." Eugenius, Noble, Delegate of the Tribunal of the Vicariate. Dean. In all these dealings, no threat of coercive repression was made, nor did any political power have any involvement, not even in vigilance. Therefore, both Father Seraphinus Hanemian with his young monks, and later, Bishop Placidus Kasangian with others, were able to freely leave Rome. Indeed, Bishop Kasangian, although he was required to attend the Vatican Council and could not leave without Apostolic permission, disregarded the censures which were imposed by Apostolic Letters, numerous in number, on November 17, 1869, against those who would absent themselves from the Council, and he departed. This true account of events, which is well known in Rome, while demonstrating how the Holy See has proceeded in the matter under discussion, also reveals the spirit of those ephemeral individuals, who, always distorting the facts, pervert them to the detriment of the authority of the Apostles. Furthermore, may God grant that those monks, and others addicted to this schism, with the divine grace preceding and assisting them, may return to the right path with generous hearts! However, this sequence of events readily recalls that schism which occurred in Holland at the beginning of the last century, and which, still persisting, originates from the city which

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is called Utrecht.

[*Latin ed. p. 532*]

To the Most Reverend Abbot of Solesmes, who presented to the Most Holy Father a polemical book, entitled: "On the Papal Monarchy," concerning the book of Monsignor, Bishop of Sura, to his beloved son, Prosper Guéranger, Abbot of the Benedictine Congregation of Gaul, from Pope Pius IX:

"Beloved son, greetings and the Apostolic Blessing. It is indeed to be lamented, beloved son, that there are among Catholics, who boast of that name, those who are thoroughly imbued with corrupt principles, so much so that they not only fail to submit their understanding to the judgment of this Holy See, which is confirmed by the common consent and commendation of Bishops, but indeed, they attempt to bend the Church to their opinion, and, considering themselves alone to be wise, they do not hesitate to designate the rest of the Catholic family, who think differently, by the name of the "Ultramontane" party.

"This madness compels them to attempt to reform the very divine constitution of the Church and to demand that it conform to the more recent modes of civil government; thereby, they more easily depress the authority of the Supreme Ruler, appointed by Christ, whose prerogatives they fear. Therefore, they boldly bring forward certain doctrines that have been repeatedly condemned, as if they were either undoubted or at least perfectly permissible; they distort historical accounts, mutilate the testimonies of writers, fabricate calumnies against the Roman Pontiffs, and employ every kind of sophistry, and they do all of this, completely disregarding the solid arguments with which these things have been refuted a hundred times, with the impudence of inciting the minds of men, and urging the people of their faction, and the ignorant masses, against the common opinion of the rest."

[*Latin ed. p. 533*]

LETTER FROM THE MOST HOLY FATHER 533: "We are compelled, indeed, to lament, besides the damage caused to the faithful by this disturbance, and the introduction of trivial matters into discussions of the most serious questions, the audacity of this folly, which is equal to its ignorance. For, if they held firm with the rest of the Catholics, that the œcumenical council should be governed by the Holy Spirit, and defined and proposed, solely by its inspiration, what ought to be believed, they would never have conceived, nor would they believe that it is possible, to define as matters of faith things which are not truly revealed, or that human arts could hinder the power of the Holy Spirit, preventing those things which have been revealed and are useful to the Church from being defined. Certainly, they would not forbid, in a proper manner, the presentation to the Fathers of the

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difficulties which they believe may oppose this or that definition, so that the truth might emerge more clearly from the discussion; but with a single purpose in this action, they would entirely abstain from the arts by which votes are usually won over in popular assemblies, and would calmly and reverently await the effect of heavenly enlightenment. "Therefore, we have considered it most useful that you have devoted yourself to the Church, having undertaken to refute the principal passages from such writings, and having demonstrated the absurdity, violence, and artifices of those passages, with such solidity, such clarity, and such abundance of sacred archaeology and science, that you have encompassed so much in so few words, that you have denied all pretense of wisdom to those who involve themselves in discussions with unlearned words; and having restored the truth of faith, of law, and of history, which you have consumed with ignorance. Therefore, we thank you for the volume you have presented, and we foretell a happy and most excellent outcome for your work. And as a pledge of our hope and of our paternal benevolence, we impart to you our Apostolic Blessing with all our heart. "Given at Rome, at St. Peter's, on the 12th of March, in the 24th year of Our Pontificate." PIUS IX, POPE.

[*Latin ed. p. 534*]

CATALOGUE OF THE HIERARCHY OF ALL BISHOPS OF THE CATHOLIC CHURCH WHO HAVE THE RIGHT TO PARTICIPATE IN THE COUNCIL, WHETHER THEY ARE IN THEIR OWN SEATS, OR RESIDING IN ROME, FOR THE ECOLOGICAL VATICAN COUNCIL. May 1830 (Those absent from Rome are indicated by an asterisk *).

MOST EMINENT, MOST REVEREND LORDS, CARDINALS OF THE HOLY ROMAN CHURCH:

Marius Mattei, Bishop of Ostia and Velletri, Dean of the Sacred College.

Constantinus Patrizi, Bishop of Porto and Santa Rufina.

Aloysius Amat, Bishop of Palestrina, Most Reverend Substitute.

Nicolaus Paracciani Clarelli, Bishop of Frascati.

Camillus Di Pietro, Bishop of Albano.

Iosephus Milesi-Pironi-Ferretti, Bishop of Sabina, Perpetual Abbot Commendatory and Ordinary of the Churches of Saint Vincent and Anastasia at Kis-Kajan.

(*) Until now, we have not presented to our readers the catalogue of the Bishops of the Church; because all the catalogues that have appeared were not free from many errors: the one we now present is more accurate than the others. It enumerates all the Bishops who are present in Rome for the purpose of the Ecumenical Council; and all the others who are currently living, who are in their own sees, either because, for canonical reasons, they

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have not come to Rome, or because they have returned to their own sees, having obtained permission from the Council and confirmed by the Roman Pontiff. They are arranged according to the order of dignity and promotion.

[*Latin ed. p. 535*]

A CATALOGUE OF THE HIERARCHY:

535 ORDERS OF PRESBYTERS

Philippus De Angelis, holding the title of Saint Lawrence in Lucina, Archbishop of Firman.

Aloisius Vannicelli-Casoni, holding the title of Saint Praxedis, Archbishop of Ferrara.

Fridericus Schwarzenberg, holding the title of Saint Augustine, Archbishop of Prague.

Cosmas Corsi, holding the title of Saints John and Paul at Clivum Scauri, Archbishop of Pisa.

Fabius Maria Asquiui, holding the title of Saint Stephen on the Coelian Hill.

Dominicus Carafa Di Traetto, holding the title of Saint Mary of the Angels, Archbishop of Benevento.

Xystus Riario-Sforza, holding the title of Saint Sabina, Archbishop of Naples.

Iacobus Maria Mathieu, holding the title of Saint Sylvester at the Head, Archbishop of Besançon.

Franciscus Donnet, holding the title of Saint Mary in the Way, Archbishop of Bordeaux.

Carolus Aloisius Monchini, holding the title of Saint Onuphrius, Bishop of Aesi.

Ioachimus Pecci, holding the title of Saint Chrysogonus, Bishop of Perugia.

Iosephus Othmarus Rauscher, holding the title of Saint Mary of Victory, Archbishop of Vienna.

Alexander Barnabò, holding the title of Saint Susanna.

Cyrillus De Alameda y Brea, Archbishop of Toledo.

Antonius Benedictus Antonucci, holding the title of Saints Sylvester and Martin on the Mountains, Bishop of Ancona and Human.

Henricus Orfei, holding the title of Saint Balbina, Archbishop of Ravenna.

Petrus De Silvestri, holding the title of Saint Mark.

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Alexius Billiet, holding the title of Saints Boniface and Alexis on the Aventine Hill, Archbishop of Chambéry, Maurienne and Tarentaise.

Carolus Sacconi, holding the title of Saint Mary of the People.

Michael Garcia Cuesta, holding the title of Saint Prisca, Archbishop of Santiago de Compostela.

Angelus Quaglia, holding the title of Saints Andrew and Gregory on the Goelian Hill.

Antonius Maria Panebianco, holding the title of Saints the Twelve Apostles, Major Penitentiary.

Iosephus Aloisius Trevisanato, holding the title of Saints Nereus and Achilles, Patriarch of Venice.

Antoninus De Luca, holding the title of Saints the Four Crowned Martyrs.

[*Latin ed. p. 536*]

536 CATALOGUE OF THE HIERARCHY:

Joseph Andrew Bizzarri, titular of Saint Jerome of Illyria.

Ludovico de La Lastra y Cuesta, titular of Saint Peter in Chains, Archbishop of Hispalensis.

John Baptist Pitra, titular of Saint Callixtus.

Philip Mary Guidi, titular of Saint Xystus, Archbishop of Bononiensis.

Henry Mary De Bonnechose, titular of Saint Clement, Archbishop of Rothomagensis.

Paul Cullen, titular of Saint Peter in Monte Aureo, Archbishop of Dublinensis.

Gustavus D'Hohenlohe, titular of Saint Mary in Transpontina.

Aloysius Bilio, titular of Saint Lawrence in Panisperna.

Lucian Bonaparte, titular of Saint Pudens.

Innocent Ferrieri, titular of Saint Cecilia.

Lawrence Barili, titular of Saint Agnes outside the walls.

Joseph Bsrardi, titular of Saints Marcellinus and Peter.

John Ignatius Moreno, titular of Saint Mary of Peace, Archbishop of Vallisoletanus.

Raphael Monaco La Valletta, titular of the Holy Cross in Sessorio.

ORDER OF DEACONS:

James Antonelli, Deacon of Saint Mary in Via Lata.

Prosper Caterini, Deacon of Saint Mary Scalaris.

Gaspar Grassellini, Deacon of Saint Mary ad Martyres.

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Theodulphus Mertel, Deacon of Saint Eustachius.

Dominic Consolini, Deacon of Saint Mary in Domnica.

Edward Borromeo, Deacon of Saints Vitus and Modestus.

Hannibal Capalti, Deacon of Saint Mary in Aquiro.

MOST REVEREND LORDS, PATRIARCHS:

Roger Antici-Mattei, Patriarch of Constantinopolitanus.

Paul Ballerini, Patriarch of Alexandrinus.

Paul Mashad, Patriarch of Antiochenus, of the Maronite rite. (March 23, 1855).

Gregory lussef, Patriarch of Antiochenus, of the Greek Melkite rite. (March 27, 1865).

Ignatius Harcus, Patriarch of Antiochenus, of the Syrian rite. (August 6, 1866).

Paul Brunoni, Patriarch of Antiochenus, of the Latin rite. (June 25, 1869).

Joseph Valerga, Patriarch of Hierosolymitanus.

Joseph Audu, Patriarch of Babilonensis, of the Chaldean rite.

[*Latin ed. p. 537*]

CATALOGUE OF THE HIERARCHY

537. Thomas Iglesias y Barcones, of the West Indies.

Anthony Hassun, of Cilicia, of the Armenian rite.

Clement Bahus, formerly of Antioch, of the Greek Melkite rite.

MOST REVEREND LORDS, PRIMATES:

1. Maximilian De Tarnoczy, Archbishop of Salzburg, promoted on February 17, 1851.

2. Charles Pooten, Archbishop of Bar and Scodra, promoted on August 31, 1855.

3. Joseph Da Moura, Archbishop of Braga, promoted on June 16, 1856.

4. Anthony Salomone, Archbishop of Salerno, perpetual administrator of the Church of Acerno, promoted on December 21, 1857.

5. Emmanuel Da Silveira, Archbishop of St. Salvador in Brazil, promoted on March 18, 1861.

6. Miecislaus Ledochowski, Archbishop of Gnesen and Posen, promoted on September 30, 1861.

7. Francis Fleix y Solans, Archbishop of Tarragona, promoted on September 22, 1864.

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8. John Simor, Archbishop of Gran, promoted on February 22, 1867.

9. Victor Dechamps, Archbishop of Mechlin, promoted on December 20, 1867.

10. Daniel Mae Gettigan, Archbishop of Armagh, promoted on March 11, 1870.

MOST REVEREND LORDS, ARCHBISHOPS:

11. Paul Musa, of Tripoli, of the Maronite rite, promoted on March 2, 1826.

12. Charles Mercy d'Argenteau, of Tyre, in a part among the infidels, promoted on October 2, 1826.

13. Lawrence Pontillo, of Cosenza, promoted on January 20, 1834.

14. Vincent Grande, of Hydrus, promoted on the same date.

15. John Mac Hale, of Tuam, promoted on August 5, 1834.

16. Peter Bonamie, of Chalcedon, in a part among the infidels, promoted on February 13, 1835.

17. Lawrence Trioche, of Babylon, promoted on March 14, 1837.

[*Latin ed. p. 538*]

538 CATALOGUE OF THE HIERARCHY

18. James Eliani of Damascus, of the Syrian rite, promoted to that position.

19. Emmanuel Staravero of Dramas, in the territory of the infidels, of the Greek rite, promoted on November 21, 1840.

20. Tobias Aún of Beirut, of the Maronite rite, promoted on March 19, 1841.

21. Godfrey Saint-Marc of Rennes, promoted on July 12, 1841.

22. Dominic Cilufto of Adana, in the territory of the infidels, promoted on January 27, 1842.

23. John Polding of Sydney, promoted on February 15, 1841.

24. Ignatius Kalybgian of Amasea, Archbishop and Bishop, of the Armenian rite, promoted on July 31, 1842.

25. Peter Apelian of Marash, Archbishop and Bishop, of the Armenian rite, promoted on the same day.

26. Joseph Giagia of Cyprus, of the Maronite rite, promoted on December 6, 1843.

27. Mellonus Iolly, formerly of Sens, promoted on January 25, 1844.

28. Peter Cilento of Rossano, promoted on July 22, 1844.

29. Lewis Martini of Cyrene, in the territory of the infidels, promoted on

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September 25, 1845.

30. Alexander Asinari of Sanmarzano, of Ephesus, in the territory of the infidels, promoted on January 19, 1846.

31. Alexander Angeloni of Urbino, promoted on April 16, 1846.

32. Francis Blanchet of Oregon City, promoted on July 24, 1846.

33. George Hurmuz of Siunia, in the territory of the infidels, of the Armenian rite, promoted on August 23, 1846.

34. Felicissimus Salvini of Camerina, perpetual administrator of the Church of Treia, promoted on April 12, 1847.

35. Peter Kenrick of St. Louis, promoted on July 12, 1847.

36. Edward Hurmuz of Siraces, in the territory of the infidels, of the Armenian rite, promoted on September 13, 1847.

37. Raphael Valdivieso of St. James of Chile, promoted on October 4, 1847.

38. Raphael D'Ambrosio of Durrës, promoted on December 17, 1847.

39. Andrew Charvaz, formerly of Genoa, promoted on July 3, 1848.

40. Augustine George Barshino of Salmas, of the Chaldean rite, promoted on July 11, 1848.

41. Joseph De Bianchi of Dottula, of Trani, of Nazareth, and of Barula, perpetual administrator of the Church of Viglie, promoted on December 22, 1848.

42. Gregory Ata of Emesa and of Apamea Cibotus, of the Greek Melkite rite, promoted on February 20, 1849.

[*Latin ed. p. 539*]

CATALOGUS HIERARCHICUS

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43. Iulius Arrigoni, of Lucca, promoted, 5 November 1849.

44. Gregory De Luca, of Compiano, perpetual administrator of the Church of Campagna, 20 May 1850.

45. Joseph Rotundo, of Taranto, promoted, same date.

46. Anthony Darety, of Clara, of the Trajan order, in the infidel territory, promoted, same date.

47. James Bahtiarian, of Amida, Archbishop, of the Armenian rite, promoted, 2 June 1850.

48. John Hagian, of Caesarea, in Cappadocia, Archbishop, of the Armenian rite, promoted, same date.

49. John Baptist Purcell, of Cincinnati, promoted, 18 July 1850.

50. Renatus Régnier, of Cambray, promoted, 30 September 1850.

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51. Albert Bartakovics, of Erlau, promoted, same date.

52. Benjamin Eusebides, of Dimitiro, of Naples, of the Greek rite, promoted, 18 August 1851.

53. Joseph Matar, of the Vicariate Apostolic of Alep, of the Maronite rite, promoted, 28 September 1851.

54. Sylvester Guevara, of Saint James of Venezuela, promoted, 27 September 1852.

55. John Zwysen, formerly of Utrecht, now Bishop of Bois-le-Duc, promoted, 4 March 1853.

56. Dominic De Sousa Magalhaes, of Mitylene, in the infidel territory, promoted, 7 March 1853.

57. John Naselli, of Palermo, promoted, 27 June 1853.

58. Frederick De Furstenberg, of Olmütz, promoted, same date.

59. Joseph Sadoc Alemany, of Saint Francis, promoted, 29 July 1853.

60. Jerome Simeon Kashat, of Sehanan, of the Chaldean rite, promoted, 7 September 1853.

61. Philip Cammarota, of Caieta, promoted, 23 June 1854.

62. Vincent Taglialatela, of Manfredonia, perpetual administrator of the Church of Vieste, promoted, same date.

63. John Tamraz, of Kerkuk, of the Chaldean rite, promoted, 14 September 1854.

64. Vincent Tizzani, of Nisibis, in the infidel territory, promoted, 23 March 1855.

65. Francis Xavier Apuzzo, of Sorrento, promoted, same date.

66. Caietan Rossini, formerly of Acerenza and Matera, now Bishop of Molfetta, Giovinazzo and Terlizzi, promoted, same date.

[*Latin ed. p. 540*]

540 CATALOGUE OF THE HIERARCHY 67 * Andrew Gollmayr, Bishop of Gorizia and Gradisca, promoted. 68 Peter Viilanova Cestellacci, titular Bishop of Petrensis in the part among the infidels, promoted on March 26, 1855. 69 Vincent Spaccapietra, Bishop of Smyrna, promoted on April 18, 1855. 70 George Errington, titular Bishop of Trapezus in the part among the infidels, promoted on May 28, 1855. 71 Francis Cugini, Abbot of the nullius Nonantola monastery, promoted on September 28, 1855. 72 Marian Ricciardi, promoted. 73 * James Bosagi, titular Bishop of Caesarea in Palestine in the part among the infidels, of the Armenian rite, promoted on November 4, 1855. 74 * Joseph Marid, titular Bishop of Archis in the part among the infidels, of the Maronite rite, promoted on the same day. 75 * Raphael Ferrigno, perpetual administrator of the Church of Ostuni, promoted on June 16, 1856. 76 Gregory De Scherr, Bishop of Munich and Freising, promoted on June 19, 1856. 77 Salvator Nobili Vitelleschi, formerly titular Bishop of

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Seleucia in the part among the infidels, now Bishop of Auxima and Cingula, promoted on the same day. 78 Alexander Franchi, Bishop of Thessalonica in the part among the infidels, promoted on the same day. 79 * Flavias Chigi, titular Bishop of Myra in the part among the infidels, promoted on the same day. 80 Aloysius De Marinis, Theatine, perpetual administrator of the Church of Vasta, promoted on September 18, 1856. 81 Peter Bostani, titular Bishop of Tyre and Sidon, of the Maronite rite, promoted on September 28, 1856. 82 Joseph Guibert, Bishop of Tours, promoted on March 19, 1857. 83 * George Chalendon, Bishop of Acqui, promoted on the same day. 84 * Peter Mashad, titular Bishop of Apamea Cibotus in the part among the infidels, of the Maronite rite, promoted on the same day. 85 Patritius Leahy, perpetual administrator of the Church of Emilia, promoted on May 13, 1857. 86 Marinus Marini, formerly titular Bishop of Palmyra in the part among the infidels, now Bishop of Urbevetana, promoted on June 16, 1857. 87 Gregory Szymonowicz, Bishop of Lviv, of the Armenian rite, promoted on July 5, 1857. 88 Joachim Limberti, Bishop of Florence, promoted on August 3, 1857. 89 Augustine Pace-Forno, titular Bishop of Rhodus in the part among the infidels, Bishop of Melitene, promoted on December 4, 1857.

[*Latin ed. p. 541*]

CATALOGUS HIERARCHICUS 541 90 * Marianus Falcinelli-Antoniacci, of Athens, in the portion among the infidels, appointed December 21, 1857. 91 * Antonius De Simone, of Heraclea, promoted in the infidel portion, March 18, 1858. 92 Philippus Gallo, of Patrae Veteres, promoted in the infidel portion, on the same day. 93 Petrus Giannelli, of Sardes, promoted in the infidel portion, June 6, 1858. 94 Franciscus Pedicini, of Bari, promoted September 27, 1858. 95 Michael De Deinlein, of Bamberg, promoted on the same day. 96 Petrus Michael Bartatar, of Serta, of the Chaldean rite, appointed November 14, 1858. 97 Emmanuel Garcia Gil, of Garz, appointed December 23, 1858. 98 Thomas Connolly, of Halifax, promoted April 15, 1859. 99 * Arsenius Avak-Wartan Hangiarakian, of Tarsus, in the infidel portion, of the Armenian rite, promoted August 15, 1859. 100 * Ioseph Goyeneche y Barreda, of Lima, appointed September 26, 1859. 101 Iulianus Desprez, of Toulouse, promoted September 26, 1859. 102 * Ignatius Hakkaui Haurananensis, of the Greek Melchite rite, appointed November 21, 1859. 103 Franciscus Wierzchleyski, of Leopoli, appointed March 23, 1860. 104 Spiridion Maddalena, of Gorcy, appointed July 13, 1860. 105 Georgius Ebedjesus Khayatt, of Amadia, of the Chaldean rite, promoted September 23, 1860. 106 Gregorius Balitian, of the Vicariate Apostolic of Alep, Archbishop, of the Armenian rite, promoted February 2, 1861. 107 * Ioannes Maria Odin, of New Orleans, appointed February 15, 1861. 108 Marianus Barrio y Fernandez, of Valencia in Spain, March 18, 1861. 109 * Franciscus Delamare, of Aux, promoted on the same day. 110 * Ioannes D'Amorin Pessoa, of Goan, promoted March 22, 1861. 111 Leo

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Korckoruni, of Milit, Archbishop, of the Armenian rite, promoted April 7, 1861. 112 * Ioseph Riofrio, formerly of Quito, Apostolic Administrator of the Church of Loian, promoted July 22, 1861. 113 Carolus De La Tour D'Auvergne-Lauraguais, of Bourges, promoted on the same day. 114 * Ioannes Hagg, of Heliopolis, of the Maronite rite, appointed August 10, 1861. 115 Gregorius Martinoz, of Manila, promoted December 23, 1861. 116 Petrus Puch y Solona, of De Plata, promoted on the same day. 117 * Sigismuudus Filinski, of Warsaw, appointed January 6, 1862. 118 Cyrillus Behnam Benni, of the Mission "Sui Iuris" of Mossul, of the Syrian rite, appointed March 9, 1862.

[*Latin ed. p. 542*]

CATALOGUE OF THE HIERARCHY

119. Benvenutus Monzón y Martins, Bishop of Granada, appointed April 7, 1862.

120. Petrus Doimus Maupas, Bishop of Zadar (Zara), appointed May 21, 1862.

121. Dionysius Georgius Seelhot, Apostolic Vicar of the Vicariate Apostolic of Alep [Beroea, Halab], of the Syrian Rite, promoted May 25, 1862.

122. Athanasius Ciarchi, Bishop of Babylon, of the Syrian Rite, promoted September 30, 1862.

123. Georgius Darboy, Bishop of Paris, promoted March 16, 1863.

124. Pelagius De Lavastida y Davalos, Bishop of Mexico, appointed March 19, 1863.

125. Paulus Hate, Apostolic Vicar of the Vicariate Apostolic of Alep, of the Greek Melkite Rite, appointed September 27, 1863.

126. Andreas Casasola, Bishop of Udine, appointed September 28, 1863.

127. Ludovicus Dubreil, Bishop of Avignon, appointed December 21, 1863.

128. Ioachim Gonin, Apostolic Vicar of Port of Spain, appointed on the same date.

129. Melchior Nasarian, Bishop of the Mission "Sui Iuris" of Mardin, of the Armenian Rite, appointed December 30, 1863.

130. Laurentius Bergeretti, Bishop of Naxos, appointed March 24, 1864.

131. Martinus Ioannes Spalding, Bishop of Baltimore, appointed April 3, 1864.

132. Ioannes Mac Gloshey, Bishop of New York, appointed May 6, 1864.

133. Darius Bucciarelli, Bishop of Skopje, appointed June 6, 1864.

134. Placidus Gasangian, Archbishop of Antioch, titular Bishop, of the Armenian Rite, promoted September 14, 1864.

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135. Ludovicus Haynald, Bishop of Colocensis and Bacsiensis, appointed on the same date.

136. Petrus Meglia, Bishop of Damascus, in the inferior province, appointed on the same date.

137. Basilius Gasparian, titular Bishop of Gyprensis, in the inferior province, of the Armenian Rite, appointed November 21, 1864.

138. Marianus Escalada, Bishop of Buenos Ayres, appointed March 4, 1865.

139. Ioseph Sembratowicz, titular Bishop of Nazianzenus, in the inferior province, of the Ruthenian Rite, Apostolic Administrator of the Ruthenian Churches of Premisliensis, Sanachiensis, and Samboriensis, appointed March 24, 1865.

140. Ioannes Lyonnet, Bishop of Albi (-Castres-Lavaur), appointed March 27, 1865.

141. Henricus Manning, Archbishop of Westminster, appointed April 30, 1865.

142. Paulus Melchers, Bishop of Cologne, appointed January 8, 1866.

143. Aloisius Oreglia a S. Stephano, titular Bishop of Damiata, in the inferior province, appointed May 4, 1866.

144. Nicolaus Castells, titular Bishop of Martianopolis, in the inferior province, appointed June 19, 1866.

145. Franciscus Xaverius De Merode, Bishop of Melitene, in the inferior province, appointed June 22, 1866.

[*Latin ed. p. 543*]

CATALOGUE OF THE HIERARCHY:

543 146. Anthony Rossi Vaccari, Bishop of Goloss, in part, instituted on the 25th of June, 1866.

147. Aloysius Ciurcia, Bishop of Irenopolis, in part, instituted on the 27th of July, 1866.

148. Walter Steins, Bishop of Bostra, in part, instituted on the 11th of January, 1867.

149. Alexander Riccardi di Netro, Bishop of Turin, instituted on the 22nd of February, 1867.

150. Aloysius Natoli, Bishop of Messina, instituted on the same day.

151. Joseph Dusmet, Bishop of Catania, instituted on the same day.

152. Joseph Cardoni, Bishop of Edessa, in part, instituted on the same day.

153. Aloysius Nazari Di Calabiana, Bishop of Milan, promoted on the 27th of March, 1867.

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154. John Landriot, Bishop of Rheims, instituted on the same day.

155. Charles Allemand Lavigerie, Bishop of Algiers, instituted on the 27th of March, 1867.

156. Athanasius Kauam, Bishop of Tyre, of the Greek Melkite rite, promoted on the 14th of April, 1867.

157. Aloysius Puecher Passavalli, Bishop of Iconium, in part, instituted on the 17th of May, 1867.

158. Victor Bernardou, Bishop of Sens, and Auxiliary Bishop of Auxerre, promoted on the 12th of July, 1867.

159. Francis Baillargeon, Bishop of Quebec, instituted on the 20th of August, 1867.

160. Anastasius Rodrigo Yusto, Bishop of Burgos, instituted on the 20th of September, 1867.

161. Bernard Pinol y Aycinena, Bishop of Guatemala, instituted on the same day.

162. Vincent Arbelaes, of the Order of Preachers, Bishop of Nueva Granada, instituted on the 6th of February, 1868.

163. Andrew Schaepman, Bishop of Utrecht, instituted on the 13th of March, 1868.

164. Joseph Checa, Bishop of Quito, instituted on the 16th of March, 1868.

165. James Cattani, Bishop of Ancyra, in part, instituted on the same day.

166. Peter Loza, Bishop of Guadalajara, instituted on the 22nd of June, 1868.

167. Stephen Stephanopoli, Bishop of Philippi, in part, of the Greek rite, instituted on the 18th of September, 1868.

168. Charles Eyre, Bishop of Anazarbus, in part, instituted on the 3rd of December, 1868.

169. John Vanesa, Bishop of Fogaras and Karlsburg, of the Romanian rite, instituted on the 21st of December, 1868.

170. Ignatius Arciga, Bishop of Mexico, instituted on the same day.

171. Joseph Angelini, Bishop of Corinth, in part, instituted on the same day.

172. Timothy Attar, Bishop of Amida (Diarbekir), of the Chaldean rite, instituted on the 22nd of March, 1869.

173. John Baptiste Pompallier, Bishop of Amasea, in part, instituted on the 19th of April, 1869.

174. Seraphinus Vannutelli, Bishop of Nicaea, in part, promoted on the 24th of June, 1869.

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544 CATALOGUE OF THE HIERARCHY 175 * Anthony Pluym, Bishop

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of Cius, ordained priest on February 23, 1870. 176 John Lynch, Bishop of Toronto, ordained priest on March 18, 1870. REVEREND LORDS BISHOPS 177 * Joseph Traversi, Bishop of Massa in Etruria, ordained priest on December 16, 1825. 178 Stephen of Jesus and Mary, Bishop of Angra, ordained priest on July 3, 1826. 179 John Losanna, Bishop of Biella, ordained priest on January 19, 1827. 180 Agabius Riecji, Bishop of Beirut, of the Greek Melkite rite, ordained priest on March 16, 1828. 181 Ignatius Giustiniani, Bishop of Chios, ordained priest on May 10, 1829. 182 Michael Bombini, Bishop of Cassano all'Jonio, ordained priest on May 21, 1829. 183 William Morris, Bishop of Trajan, ordained priest on August 9, 1831. 184 Alphonsus Di Donato, Bishop of Cardicium, ordained priest on September 9, 1831. 185 Aloysius Lastaria, Bishop of Zacynthus and Cephallenia, ordained priest on November 4, 1831. 186 Charles Hanl, Bishop of Regio Gradisca, ordained priest on February 24, 1832. 187 Joseph Dos Reis, Bishop of Cuiabá, ordained priest on July 2, 1832. 188 Frederick Rezé, Bishop of Detroit, ordained priest on March 8, 1833. 189 John Negri, Bishop of Tortona, ordained priest on April 15, 1833. 190 Leonard Todisco Grande, Bishop of Ascoli and Cerignola, ordained priest on January 20, 1834. 191 Louis Feron, Bishop of Clermont, ordained priest on January 0, 1834. 192 William Sillani, formerly Bishop of Arezzo, now Bishop of Terracina, ordained priest on April 4, 1835. 193 Gaspas Labis, Bishop of Tournay, ordained priest on April 6, 1835. 194 Louis Robiou De la Trehonnais, formerly of Constances, ordained priest on February 1, 1836. 195 Theodosius Koiumgi, Bishop of Sidon, of the Greek Melkite rite, ordained priest on December 20, 1836. 196 Athanasius Tutundgi, Bishop of Tripoli, of the Greek Melkite rite, ordained priest on December 22, 1836. 197 Ignatius Bourget, Bishop of Montreal, ordained priest on March 10, 1837. 198 Lawrence Biale, Bishop of Ventimiglia, ordained priest on May 19, 1837. 199 Joseph Severa, Bishop of Interamna, ordained priest on October 2, 1837. 200 Frederick De Marguerye, Bishop of Autun, ordained priest on the same day. 201 Francis Lacroix, Bishop of Bayonne, ordained priest on February 23, 1838. 202 Aloysius Moreno, Bishop of Ivrea, ordained priest on September 13, 1838. 203 Francis Rivel, Bishop of Dijon, ordained priest on the same day.

[*Latin ed. p. 545*]

CATALOGUE OF THE HIERARCHY:

545 Emmanuel Verolles, of Columbica, in part, ordained priest on December 12, 1838.

205 Augustus Allou, of Meaux, ordained priest on February 21, 1839.

206 Caelestinus De La Hailandière, formerly of Vincennes, ordained priest on May 17, 1839.

207 Nicolaus Golia, of Cariati, ordained priest on July 11, 1839.

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208 Romualdus Ximeno Gaebuanensis, ordained priest on July 27, 1839.

209 Thomas Feeny, of Killala, ordained priest on the same day.

210 Ioannes Laurent Ghersonensis, in part, ordained priest on September 17, 1839.

211 Michaelangelus Orlandi, of Apua, ordained priest on December 13, 1839.

212 Henricus Hofstaetter, of Passau, ordained priest on December 23, 1839.

213 Ludovicus Besi, of Ganopolis, in part, ordained priest on January 10, 1840.

214 Thomas Brown, of Neoportus and Menevia, ordained priest on May 11, 1840.

215 Stephanus Bagnoud, of Bethlehem, in part, ordained priest on July 3, 1840.

216 Georgius De Stahl, of Würzburg, ordained priest on July 31, 1840.

217 Petrus Bataillon, of Aenos, in part, ordained priest on August 23, 1840.

218 Ioseph Ponsot, of Phiomilia, in part, ordained priest on August 28, 1840.

219 Ioannes Paredi, of Roermond, ordained priest on November 24, 1840.

220 Carolus Gigli, of Tiburtus, ordained priest on December 14, 1840.

221 Andreas Raess, of Strasbourg, ordained priest on the same day.

222 Dominicus Zichy de Vazsonyko, formerly of Veszprém, ordained priest on the same day.

223 Richaidus Whelan, of Velinga, ordained priest on December 15, 1840.

224 Dionysius Gauthier, of Emaus, in part, ordained priest on December 18, 1840.

225 Eugenius Desflèches, of Sinitis, in part, promised to the priesthood on December 18, 1840.

226 Franciscus Vjbert, of Mauriana, promised to the priesthood on March 1, 1841.

227 Stephanus Charbonneau, of Jassy, in part, ordained priest on June 21, 1841.

228 Sigismundus Deaky, of Caesaropolis, in part, promised to the priesthood on July 12, 1841.

229 Marianus Fernandez Fortique, of Capharnaum, in part, ordained priest on the same day.

230 Michael Calderón, of Bodona, in part, ordained priest on September 9, 1841.

231 Nicolaus Crispigni, of Foligno, ordained priest on January 24, 1842.

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232 Fridericus Manfredini, of Patavium, ordained priest on the same day.

233 Ioseph Gignoux, of Bellovacensis, ordained priest on the same day.

234 Ioannes Boset, of MÃ©rida, ordained priest on January 27, 1842.

235 Petrus Blum, of Limburg, ordained priest on May 23, 1842.

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546 CATALOGUE HIERARCHICUS

236 Eleonoras Aronne of Montis Alti, ordained 22 July 1842.

237 Ioannes Baptista Berteaud of Tutelensis, ordained on the same day.

238 Caietanus Carli of Ahnirensis, in a mission among the infidels, ordained 23 August 1842.

239 * Ioan. Weland of Aureliopolitanus, in a mission among the infidels, ordained 19 January 1843.

240 * Iacobus Gentile of Novariensis, promoted 27 January 1843.

241 Paulus Dupont Des Loges of Metensis, promoted on the same day.

242 * Ioseph Gaganetz of Eperiessensis, of the Ruthenian rite, promoted on the same day.

243 Ioseph Alberti of Syrensis, promoted 21 March 1843.

244 * Raphael Purpo of Puteolanus, promoted 3 April 1843.

245 Ioannes Ghilardi of Montis Regalis, promoted 23 May 1843.

246 Ioseph Iannuzzi of Lucerinus, promoted 19 June 1843.

247 Petrus Severini of Sappensis, promoted 26 November 1843.

248 Ioannes Henni of Milwauchiensis, promoted 28 November 1843.

249 Ioannes Doney of Montis Albani, promoted 22 January 1844.

250 * Antonius Ferreira Viçoso of Marianensis, promoted on the same day.

251 Salvator Fertitta of Cavensis et Sarnensis, ordained 25 January 1844.

252 Ioannes Baptista Montixi of Ecclesiensis, promoted on the same day.

253 Petrus De Preux of Sedunensis, promoted on the same day.

254 Carolus Roussalet of Sagiensis, promoted on the same day.

255 * Ioannes Miche of Dansarensis, in a mission among the infidels, ordained 2 March 1844.

256 Gabriel Grioglio of Euriensis, in a mission among the infidels, promoted on the same day.

257 Aloisius Moccagatta of Zenopolitanus, in missions among the infidels, promoted 3 March 1844.

258 Fidelis Suter of Rosaliensis, in a mission among the infidels, ordained 23 June 1844.

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259 * Gaspar Borowski of Luceoriensi and Zytomeriensis, promoted 3 July 1844.

260 Bonaventura Athanasius, formerly of Liparensis, ordained 22 July 1844.

261 Philippus Viard of Wellingtoniensis, promoted 7 February 1845.

262 * Aloisius of Bienna Hierocaesareensis, in missions among the infidels, promoted 21 April 1845.

263 Alexius Wicart of Vallis Vidonis, promoted 24 April 1845.

264 Ioannes Brady of Perthensis, promoted 18 May 1845.

265 * Ioannes Bouchò of Alaliensis, in a mission among the infidels, promoted 3 June 1845.

266 Ioannes Pellei, of Aquaependensis, promoted 24 November 1845.

267 Iacobus Bailles, formerly of Lucionensis, promoted on the same day.

268 Daniel Murphy of Hobartoniensis, promoted 16 December 1845.

269 Stephanus Marilley of Lausanensis and Genevensis, promoted 19 January 1846.

270 * Petrus Bigandet of Ramathensis, in a mission among the infidels, ordained 27 March 1846.

[*Latin ed. p. 547*]

CATALOGUE OF THE HIERARCHY

547 271 * Lewis Alloury, formerly of Pamiers, ordained on April 16, 1846.

272 * William Massaia, of Cassia, in minor orders, ordained on May 4, 1846.

273 * Edward Walsh, of Ossory, ordained on May 12, 1846.

274 William Ullathorne, of Birmingham, ordained on the same day.

275 Alexius Ganoz, of Tamassia, in minor orders, ordained on May 19, 1846.

276 Theodorus Forcade, of Nevers, ordained on May 23, 1846.

277 Modestus Demers, of Vancouver, ordained on July 18, 1846.

278 Aloisius Maigret, of Arates, in minor orders, ordained on August 11, 1846.

279 Peter Paul Trucchi, of Forlì, ordained on September 21, 1846.

280 * Joseph Ghauveau, of Sebastopol, in minor orders, ordained on November 27, 1846.

281 * Bartholomew Legat, of Trieste and Justiniana Prima, promoted on December 12, 1846.

282 Franciscus Mazzuoli, of Saint Severin, ordained on December 21, 1846.

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283 Felix Gantimorri, of Parma, promoted on the same day.

284 * Ephysius Chiais, of Thiene, in minor orders, ordained on February 24, 1847.

285 Philippus Mincione, of Miletus, promoted on April 12, 1847.

286 Vincentius D'Alfonso, of Penne and Atri, ordained on the same day.

287 Amedeus Rappe, of Cleveland, ordained on April 23, 1847.

288 Joseph Novella, of Patara, in infidel territory, ordained on May 22, 1847.

289 Peter Vranken, of Colophon, in infidel territory, ordained on June 4, 1847.

290 Joseph Serra, of Daulia, in infidel territory, ordained on June 11, 1847.

291 Aloisius Ricci, of Signia, promoted on June 14, 1847.

292 * John Derry, of Glonfer, ordained on July 9, 1847.

293 * William Delany, of Gorcag, ordained on the same day.

294 James Goold, of Melbourne, ordained on the same day.

295 Eugenius Guigues, of Otawa, ordained on the same day.

296 * William Alien Collier, of Drusipara, in minor orders, ordained on December 7, 1847.

297 * Nicholas Marinelli, of Soli, in minor orders, ordained on January 11, 1848.

298 Franciscus Gandolfi, of Corneto and Centumcellae, ordained on April 14, 1848.

299 * Florentinus Iaussen, of Axia, in infidel territory, ordained on May 9, 1848.

300 * Anthony Doumer, of Iuliopolis, in infidel territory, ordained on the same day.

301 * John Bessieux, of Callipolis, in infidel territory, ordained on June 20, 1848.

302 * Thomas Pineda y Zaldana, of Saint Saviour, ordained on July 3, 1848.

303 Hilarius Alcázar, of Paphos, in infidel territory, ordained on September 5, 1848.

304 John Balma, of Ptolemais, in infidel territory, ordained on the same day.

305 * Aloisius Kobes, of Methone, in infidel territory, ordained on September 27, 1848.

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548 CATALOGUE OF THE HIERARCHY

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306 Mauritius De Saint Palais, of Vincennes, promoted on October 3, 1848.

307 Christophorus Koett, of Fulda, promoted on December 11, 1848.

308 Patritius De Moura, of Funchal, promoted on the same date.

309 Iulianus Meirieu, of Digneâ□□Riezâ□□Sisteron, promoted on the same date.

310 Laurentius Renaldi, of Pinerolo, promoted on the same date.

311 Ianuarius Di Giacomo Aliphanus, promoted on December 22, 1848.

312 Antonius Ranza, of Piacenza, promoted on April 2, 1849.

313 Ioannes Foulquier, of Mende, promoted on the same date.

314 Antonius Boscarini, of Saint Angel in Vado and Urbino, promoted on April 20, 1849.

315 Aloisius Vetta, of Nerita, promoted on the same date.

316 Ianuarius Acciardi, of Anglonensis and Tursi, promoted on the same date.

317 Ludovicus Caverot, of Saint Deodatus, promoted on the same date.

318 Camillus Monteforte, of Sidon, in a mission among the infidels, promoted on the same date.

319 Franciscus Kelly, of Derri, promoted on June 3, 1849.

320 Guillelmus Keane, of Cloyne, promoted on August 3, 1849.

321 Rodesindus Salvado, of Vitoria in Australia, Abbot of the Territorial Abbey of New Norcia, promoted on August 15, 1849.

322 Antonio De Stefano, of Benda, in a mission among the infidels, promoted on August 28, 1849.

323 Livius Parladore, of Saint Mark and Bisignano, promoted on September 28, 1849.

324 Feliz Dupanloup, of Orleans, promoted on September 28, 1849.

325 Ludovicus Pie, of Poitiers, promoted on the same date.

326 Mathias Wolonezewski, of Samogitia, promoted on the same date.

327 Ioachimus Pereira Ferraz, of Leiria, promoted on the same date.

328 Ioannes Baudri, of Arethusinus, in a mission among the infidels, promoted on the same date.

329 Ignatius Sellitti, of Melphi and Rapolla, promoted on November 5, 1849.

330 Ioannes Ranolder, of VeszprÃ©m, promoted on January 7, 1850.

331 Petrus De Dreux, of Brézé Moulin, promoted on the same date.

332 Franciscus De Carbonell, of Sozopolis, in a mission among the infidels, promoted on March 15, 1850.

333 Ioannes Van-Genk, of Breda, promoted on March 22, 1850.

334 Iosep Arachial, of Anciran, of the Armenian rite, promoted on April

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30, 1850.

335 Raphael Bachetoni, of Nursia, promoted on May 20, 1850.

336 Franciscus Petagnâ, of Castri Maris, promoted on the same date.

337 Guillelmus De Ketteler, of Mainz, promoted on the same date.

338 Ioseph Strossmayer, of Bosnia and Syrmia, promoted on the same date.

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CATALOGUE OF THE HIERARCHY

549 339 Peter D'Uriz y Da Labairu, of Pamplona and Tudela, promoted therein.

340 * Emmanuel Manso, of Guarda, promoted therein.

341 * Alexander Taché, of Saint Boniface, promoted on June 20, 1850.

342 * John Baptist Lamy, of the Society of Jesus in America, promoted on July 23, 1850.

343 * John Mac Gill, of the Catholic Diocese of Richmond, promoted therein.

344 John Baptist Miége, of Messene, in the inferior province, promoted therein.

345 * Maglorius Blanchet, of Nesqually, promoted on July 28, 1850.

346 Joseph Sohier, of Gadara, in the inferior province, promoted on August 27, 1850.

347 Jerome Verzeri, of Brescia, promoted on September 30, 1850.

348 John Farina, of Vicenza, promoted therein.

349 Anthony Cousseau, of Angoulême, promoted therein.

350 * Ladislaus Zaboiski, of Scepuci, promoted on September 30, 1850.

351 * Edward Wedekin, of Hildesheim, promoted therein.

352 Peter Lacarrière, formerly of Guadalupe (Island), promoted on October 3, 1850.

353 Francis Allard, of Samaria, in the inferior province, promoted on January 20, 1851.

354 Philip Fratellini, of Fossombrone, promoted on February 17, 1851.

355 Aloysius Margaret, of Orte, promoted therein.

356 Louis Pallu du Parc, of Blois, promoted therein.

357 * Anselm Fiorente, of Saint Joseph of Costa Rica, promoted on April 10, 1851.

358 * John Sarrebayroze, of Hetalonia, in the inferior province, promoted on June 22, 1851.

359 Thomas Grant, of Southwark, promoted therein.

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360 * William Turner, of Salford, promoted therein.

361 * James Brown, of Shrewsbury, promoted on September 5, 1851.

362 Mathias Mengacci, of the City of Castellena, of Orte and Gallese, promoted therein.

363 Vincent Bisceglia, of Thermula, promoted therein.

364 John Mabile, of Versailles, promoted therein.

365 John Jirsik, of Budvice, promoted therein.

366 * Michael Salva, of Majorca and Ibus, promoted therein.

367 Colinus Mae Kinnon, of Arichat, promoted on November 21, 1851.

368 Paul Hindi, of Jazira, of the Chaldean rite, promoted on February 24, 1852.

369 Aloysius De La Pace, of Hadriane, in the inferior province, promoted on February 27, 1852.

370 Joseph Pukalski, of Tarnów, promoted on March 15, 1852.

371 John Guerrin, of Langres, promoted therein.

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372 John Longobardi of Andria, promoted on March 18, 1852.

373 Aloysius Sodo of Thelesia, promoted on the same day.

374 Bartholomew D'Avanzo of Galvensis and Teano, Apostolic Administrator of the Church of Civita Castellana, promoted on the same day.

375 Raphael De Franco of Gataca, promoted on the same day.

376 Francis Landeira y Sevilla of Carthage, promoted on the same day.

377 Adam Weitkievicz of Minsk, promoted on the same day.

378 Lewis Regnault of Chartres, promoted on May 15, 1852.

379 Thomas Cooke of Trifluvia, promoted on June 2, 1852.

380 Joseph La Rocque of Germanicopolitanus in partibus inferioribus, promoted on July 6, 1852.

381 Anthony L& Scala of Saint Severus, promoted on September 27, 1852.

382 Theodore de Montpellier of Liège, promoted on the same day.

383 Iesualdus Vitali of Ferentus, promoted on the same day.

384 Anthony Frenzel of Ariopolis in partibus inferioribus, promoted on the same day.

385 Macarius Haddad, Bishop and Syncellus of the Patriarch of Antioch, of the Greek Melkite rite, promoted on September 30, 1852.

386 Patricius Durcan of Acadensis, promoted on October 4, 1852.

387 Patricius Fallón of Finaborensis and Daucensis, promoted on January 28, 1853.

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388 Aloysius Filippi of Aquila, promoted on March 7, 1853.

389 James Ginoulhiac of Gratianopolis, promoted on the same day.

390 Francis Rudigier of Linz, promoted on March 10, 1853.

391 Joseph Caizal y Estrade of Urgel, promoted on the same day.

392 Michael Anfossi of Mennith in partibus inferioribus, promoted on March 15, 1853.

393 John Loughlin of Brooklyn, promoted on June 19, 1853.

394 Vincent Ciccolo of Trapani, promoted on June 27, 1853.

395 John Verea De Linares, promoted on the same day.

396 Vitalis Tirmarche of Adrasa in partibus inferioribus, promoted on July 8, 1853.

397 Richard Roskell of Nottingham, promoted on July 29, 1853.

398 Alexander Goss of Liverpool, promoted on the same day.

399 James Roosevelt Bayley of Nevarcensis, promoted on the same day.

400 Lewis De Goesbriand of Burlington, promoted on the same day.

401 Thaddeus Amat of Monterrey and Puebla, promoted on the same day.

402 Augustus Maria Martin of Natchitoches, promoted on the same day.

403 Aemigdius Foschini of Città della Pieve, promoted on September 12, 1853.

404 Vincent Materozzi of Ruvo and Bitonto, promoted on the same day.

405 Henry Foerster of Breslau, promoted on the same day.

406 John Deppen of Same in partibus inferioribus, promoted on November 15, 1853.

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CATALOGUE OF THE HIERARCHY

551 407 Petras Speranza, Bishop of Bergamo, promoted December 19, 1853.

408 Thomas Salzano, Titular Bishop of Tanis, in partibus inferioribus, promoted January 13, 1854.

409 David Moriarty, Bishop of Kerry and Aghadow, promoted March 5, 1854.

410 Athanasius Zuber, Titular Bishop of Augustopol, in partibus inferioribus, promoted March 8, 1854.

411 Ignatius Persico, Bishop of Savannah, promoted on the same day.

412 Benedict Di Riccabona, Titular Bishop of Trent, promoted April 7, 1854.

413 Vincentius Zubranich, Bishop of Ragusa, promoted on the same day.

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414 Carolus Colina, Titular Bishop of Tlascala, promoted on the same day.

415 Joseph Freusberg, Titular Bishop of Sidyma, in partibus inferioribus, promoted on the same day.

416 Ioannes Kraly, Titular Bishop of Lycopolis, in partibus inferioribus, promoted July 16, 1854.

417 Hyacintus Barberi, Bishop of Lamezia Terme, promoted June 23, 1854.

418 Joseph Panelli, Titular Bishop of Saint Angel of the Lombards and Bisaccia, promoted on the same day.

419 Aloisius De Agazio, Bishop of Trivento, promoted on the same day.

420 Felix Romano, Titular Bishop of Iscla, promoted on the same day.

421 Joseph Salas, Titular Bishop of the Holy Conception of Chile, promoted on the same day.

422 Ioannes De Alburquerque, Titular Bishop of Córdoba in Spain, promoted on the same day.

423 Ioannes Leahy, Bishop of Dromore, promoted July 10, 1854.

424 Ludovicus Forwerk, Titular Bishop of Leontopolis in Bithynia, in partibus inferioribus, promoted July 21, 1854.

425 Augustinus Roskovanyi, Titular Bishop of Neutra, promoted September 5, 1854.

426 Franciscus Stefanowicz, Titular Bishop of Samosata, in partibus inferioribus, promoted November 16, 1854.

427 Alexander Dobra Ligosiensis, of the Ruthenian rite, promoted November 18, 1854.

428 Franciscus Maiorsini, Titular Bishop of Lacedonia, promoted November 30, 1854.

429 David Bacon, Bishop of Portland, promoted January 23, 1855.

430 Renatus Sergent, Bishop of Quimper-Léon, promoted March 12, 1855.

431 Innocentius Sannibale, Bishop of Eugubinus, promoted March 23, 1855.

432 Ioannes Rosati, Titular Bishop of Tudert, promoted on the same day.

433 Caietanus Rodilossi, Titular Bishop of Alatrium, promoted on the same day.

434 Dominicus Zelo, Titular Bishop of Aversa, promoted on the same day.

435 Philippus De Simone, Titular Bishop of Nicotera and Tropea, promoted on the same day.

436 Franciscus Gallo, Bishop of Avellino, promoted on the same day.

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437 Franciscus Giampaolo, Titular Bishop of Larino, promoted on the same day.

438 Petrus Rota, Bishop of Guastalla, promoted on the same day.

439 Ioannes Vitezich, Bishop of Veglia, promoted on the same day.

440 Franciscus Roullet De La Bouillerie, Titular Bishop of Carcassonne, promoted on the same day.

441 Ioannes Escalante, Titular Bishop of Anastasiopolis, in partibus inferioribus, promoted on the same day.

442 Guillelmus Vaughan, Bishop of Plymouth, promoted July 10, 1855.

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552 CATALOGUE OF THE HIERARCHY

443 Dominic O'Brien, of Waterford, Oslo, and Lismore, promoted on August 3, 1855.

444 Nicholas Pace, of Ameria, promoted on September 28, 1855.

445 Joseph Förmisano, of Nolan, promoted on the same day.

446 Raphael Morisciano, of Squillace, promoted on September 28, 1855.

447 John Benini, of Pescia, promoted on the same day.

448 Claudius Plantier, of Nîmes, promoted on the same day.

449 Louis Delalle, of Rodez et Vabres, promoted on the same day.

450 Francis Orueta De Truxillo, promoted on the same day.

451 Joseph Dei Prete-Belmonte, of Thyatira, in the inferior province, promoted on the same day.

452 Ildephonsus Dordillon, of Cambysopolis, in the inferior province, promoted on December 7, 1855.

453 Vincent Moretti, of Imola, promoted on December 17, 1855.

454 John Renier, of Feltre and Belluno, promoted on December 17, 1855.

455 Anthony Iordany, of Foroiuli and Toulon, promoted on December 20, 1855.

456 John Baptist Nehiba, of Knin, promoted on the same day.

457 Lawrence Gillooly, of Elphin, promoted on February 18, 1856.

458 James Walsh, of Kildare and Leighlin, promoted on the same day.

459 John Farrell, of Hamilton, promoted on February 18, 1856.

460 Adolphus Pinsoneault, of Byrtha, in the inferior province, promoted on the same day.

461 Patrick Moran, of Dunedin, promoted on the same day.

462 Michael Navarro, of Cucusi, in the inferior province, promoted on April 8, 1856.

463 Hadrian Languillat, of Sergiopolis, in the inferior province, pro-

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moted on May 20, 1856.

464 Elias Alberani, of Ascoli, promoted on June 16, 1856.

465 Thomas Passero, of Troia, promoted on the same day.

466 Henry De Rossi, of Caserta, promoted on the same day.

467 James Bernardi, of Massa, promoted on the same day.

468 James Boudinet, of Amiens, promoted on the same day.

469 Mark Calogerà, of Spalato, on June 19, 1856.

470 Conrad Martin, of Paterbon, promoted on the same day.

471 Joseph Arroyo De Guayana, promoted on the same day.

472 George Ieschke, of Diocaesarea, in the inferior province, promoted on the same day.

473 Zephyrinus Guillemin, of Cybistra, in the infidel province, promoted on August 5, 1856.

474 Bernardinus Medina De Carthagena, in the Indies, promoted on September 16, 1856.

475 Dalmatius Di Andrea, of Bova, promoted on September 18, 1856.

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CATALOGUE HIERARCHICUS 553 476 * Vincent Lipski, Bishop of Ionopolis, in part, inferior, promoted therein. 477 Philip Vespasiani, Bishop of Fano, promoted on December 15, 1856. 478 Clement Fares, Bishop of Pesaro, promoted therein. 479 Vincent Gasser, Bishop of Brixen, promoted therein. 480 Francis Marinelli, Bishop of Porphyreon, in part, inferior, promoted therein. 481 * Thomas Furlong, Bishop of Ferns, promoted on January 9, 1857. 482 * James Wood, Bishop of Philadelphia, promoted therein. 483 John Mae Evilly, Bishop of Galway, promoted on January 9, 1857. 484 William Eider, Bishop of Natchesium, promoted therein. 485 William Clifford, Bishop of Clifton, promoted on January 29, 1857. 486 Lewis Delcusy, Bishop of Viviers, promoted on March 19, 1857. 487 Peter Geraud de Langalerie, Bishop of Bellic, promoted therein. 488 Peter Ferre, Bishop of Casale Monferrato, promoted therein. 489 Amand Maapoint, of the Order of Saint Dionysius, of Reunion, promoted therein. 490 * John Solar, of the Order of Saint Charles, of Ancudia, promoted therein. 491 * Raphael Salinas, Bishop of Cochabamba, promoted therein. 492 John Baptist Scandella, Bishop of Antino, in part, inferior, promoted on April 28, 1857. 493 Peter Buffetti, Apostolic Administrator of the Church of Sarsina, promoted on August 3, 1857. 494 Joseph Targioni Volaterranus, promoted therein. 495 Aloysius Paolotti, Bishop of Montepulciano, promoted therein. 496 * Peter de Pompignac, of the Order of Saint Florus, promoted therein. 497 * John D'Aguiar, Bishop of Brigantia and Miranda (do Douro), promoted therein. 498 * John Deila Marwitz, Bishop of Chełmno, promoted therein. 499 * Valentine Baranowscki, Bishop of Loryma, in part, inferior,

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promoted therein. 500 Eustachius Zanoli, Bishop of Eleutheropolis, in part, inferior, promoted on August 17, 1855. 501 * John Lüers Wayne, Bishop of Castrum, promoted on September 22, 1857. 502 Joseph De Los Rios, Bishop of Lugo, promoted on September 25, 1857. 503 * Roderick Echevarría y Briones, Bishop of Segovia, promoted therein. 504 Michael O' Hea, Bishop of Ross, promoted on December 11, 1857. 505 * Patrick Lynch, Bishop of Carolopolis, promoted therein. 506 Joseph Papardo Dei Parco, Bishop of Sinop, in part, inferior, promoted therein. 507 Clement Pagliari, Bishop of Anagni, promoted on December 21, 1857. 508 Peter Sola, Bishop of Nice, promoted therein. 509 * George Dobrilla, Bishop of Parentium and Pula (Pola), promoted therein. 510 * George Smiciklas, Bishop of Križevci (Kreutz) (Križevci), of the Ruthenian rite, promoted therein. 511 Cosmas Marrodan y Rubio, Bishop of Tarazona, promoted therein.

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554 CATALOGUE OF THE HIERARCHY

512 Bernard Conde y Corral, Bishop of Zamora in Spain.

513 Franciscus Benavides Seguntinus, promoted to the same.

514 Ferdinandus Blanco, Bishop of Ávila, promoted to the same.

515 Petrus Asensio, Bishop of Jaca, promoted to the same.

516 Matthaeus Jaume y Garau, Bishop of Minorca, promoted to the same.

517 Paulus Carrion De Portorico, promoted to the same.

518 Petrus Krejci, of Oropesa in the inferior province, promoted to the same.

519 Augustinus Verot, of Saint Augustine, promoted to the same.

520 Vitalis Grandin, of Satala in the inferior province, promoted to the same.

521 Franciscus Mae Farland, of Hartford, appointed on January 8, 1858.

522 Eduardus Horan, Bishop of Kingston, promoted to the same.

523 Rogerius Blundo, Bishop of Cefalù, promoted on March 11, 1858.

524 Carolus Fillion, Bishop of Genoman, promoted to the same.

525 Ioannes Devoucoux, Bishop of Évreux, promoted on March 18, 1858.

526 Ignatius De Senestrey, Bishop of Ratisbon, promoted to the same.

527 Iacobus Jeancard, of Ceramus in the inferior province, promoted to the same.

528 Ioannes Pinchón, of Polemonium in the inferior province, appointed on April 23, 1858.

529 Franciscus Kerril, of Amherst, Northampton, promoted on May 14, 1858.

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530 Paschalis Vuicic, of Antiphellis in the infidel province, promoted on June 1, 1858.

531 Antonius Fialkowski, of Camenec, promoted on June 25, 1858.

532 Ludovicus Idèo, Bishop of Lipara, promoted to the same.

533 Michael Paya y Rico, Bishop of Cuenca in Spain, promoted to the same.

534 Andreas Rosales y Muñoz, Bishop of Almería, promoted to the same.

535 Iacobus Etheridge, of Torone, in the inferior province, promoted to the same.

536 Ioannes Bosmann, of Dioclensis, in the inferior province, promoted to the same.

537 Augustinus Franco, of Hermopolis Maior, in the inferior province, of the Greek rite, promoted to the same.

538 Michael Flannery, Bishop of Laon, promoted on July 6, 1858.

539 Dominicus Fanelli, Bishop of Diana, promoted on September 27, 1858.

540 Carmelus Valenti, Bishop of Mazara del Vallo, promoted to the same.

541 Ioannes Belaval, Bishop of Pamiers, promoted to the same.

542 Pancratius Dinkel, Bishop of Augusta Vindelicorum, promoted to the same.

543 Petrus Cubero y Lopez de Padilla, Bishop of Oriola, promoted to the same.

544 Ioachimus Lluch, Bishop of Salamanca and Ciudad Rodrigo, appointed to the same.

545 Adamus Krasinki, Bishop of Vilna, promoted to the same.

546 Ioseph Staniewski, of Platearum in the inferior province, promoted to the same.

547 Henricus Plater, of Mosinopolitan, in the inferior province, promoted to the same.

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CATALOGUS HIERARCHICUS

555 Alexander Beresniewiez, of Maximianopolitan, promoted to the same rank.

548 *Alexander Beresniewiez, of Maximianopolitan, promoted to the same rank.

549 Ignatius Papardo, of Dei Parco, Bishop of Myndus, promoted to the same rank. Saint Lucy of Milis, promoted to the same rank.

550 Valentinus Wiery, of Gurk, promoted on October 30, 1858.

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551 Petrus Tilkian, of Brus, of the Armenian rite, promoted on October 31, 1858.

552 Carolus Poirier, of Ross, promoted on November 12, 1858.

553 Antonius Maria Valenziani, of Fabriana and Matilica, promoted on December 23, 1858.

554 Hyacinthus Luzi, of Narni, Apostolic Administrator of the Church of Mandel, promoted to the same rank.

555 Melchior Lo Piccolo, of Nicosia and Herbet, promoted to the same rank.

556 Ioannes Guttadauro di Reburdone, of Caltanissetta, promoted to the same rank.

557 *Venceslaus Soie, of Senj, perpetual Administrator of the Church of Modruš, promoted to the same rank.

558 Ferdinandus Arguelles y Miranda, of Astorga, promoted to the same rank.

559 *Didacus Alguacil, of Vitoria, in Hispania, promoted to the same rank.

560 *Ioseph Ramírez de Arellano, of Cordoba, in India, promoted to the same rank.

561 *Iacobus O' Gorman, of Raphan, in a part among the infidels, promoted on January 18, 1859.

562 *Thomas Grace, of Saint Paul of Minnesota, promoted on January 21, 1859.

563 *Iacobus Duggan, of Chicago, promoted to the same rank.

564 Antonius Peitler, of Waitzen, promoted on April 15, 1859.

565 *Ioseph Juszynski, of Sandomierz, promoted to the same rank.

566 Ioannes Zepeda, of Comayagua, promoted to the same rank.

567 Iacobus Quinn, of Brisbane, promoted to the same rank.

568 Antonius Halagin, of Artuin, of the Armenian rite, promoted to the same rank.

569 *Iacobus Weian, of Diocletianopolis, in a part among the infidels, promoted to the same rank.

570 *Felicissimus Coccino, of Marrochi, in a part among the infidels, promoted on May 3, 1859.

571 Carolus Macchi, of Regiae, promoted on June 20, 1859.

572 *Alphonsus Maria Cappetta, of Gravina and Montepeloso, promoted to the same rank.

573 Ioseph Teta, of Oppido, promoted to the same rank.

574 Aloisius Riccio, of Caiace, promoted to the same rank.

575 Michael Milella, of Aprut, promoted to the same rank.

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576 *Ioannes Baptista Siciliani, of Capaccio and Vella, promoted to the same rank.

577 Franciscus Xaverius D'Ambrosio, of Murano, promoted to the same rank.

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556 CATALOGUE OF THE HIERARCHY 578 Andrew Emmanuel Asmar, of ZÄ□khÅ (Zaku), of the Chaldean rite, promoted, July 22, 1859. 579 Nicholas, of Florence and Coire, promoted, September 16, 1859. 580 John Quinlan, of Mobile, promoted, September 26, 1859. 581 Simon Spilotros, of Tricarico, promoted on the same day. 582 Felix Fruchaud, of Limoges, promoted on the same day. 583 Lewis Epivent, of Ature, promoted on the same day. 584 Joseph Lopez Crespo, of Santander, promoted on the same day. 585 John Sweeny, of Saint John, promoted, December 9, 1859. 586 Peter Pichón, of Helenopolis, in the inferior province, promoted, January 24, 1860. 587 Peter Tardoya, of Tiberiopolis, in the inferior province, promoted, March 13, 1860. 588 John Monetti, of Cervia, promoted, March 23, 1860. 589 Alexander Spoglia, of Comacchio, promoted on the same day. 590 Aloysius Mariotti, of Feretra, promoted on the same day. 591 Valerius Laspro, of Gallipoli, promoted, March 23, 1860. 592 Caietanus Striscia, of Nusca, promoted on the same day. 593 Aloysius Lembo, of Cotrone, promoted on the same day. 594 Michaelangelo Celesia, of Patti, promoted on the same day. 595 Bartholomew Widmer, of Laibach, promoted on the same day. 596 Ambrose Abdou, of Mariamnensis, of the Greek Melkite rite, promoted, April 20, 1860. 597 Peter Mae Intyre, of Carolinopolis, promoted, May 8, 1860. 598 James Rogers, of Chatham, promoted on the same day. 599 Patrick Dorrian, of Down and Connor, promoted, June 22, 1860. 600 Peter Dufal, of Delcon, in the inferior province, promoted, July 3, 1860. 601 Bonaventure Rizo, of Salta, promoted, July 13, 1860. 602 Lewis Faurie, of Apollonia, in the inferior province, promoted, September 2, 1860. 603 Eugene O' Connel, of Grass Valley, promoted, September 26, 1860. 604 Alexander Bonnaz, of Csanad and Temesvar, promoted, September 28, 1860. 605 Sebastian Dias Larangeira, of Saint Peter of Fluminis Grande, promoted on the same day. 606 Aloysius Dos Santos, of Fortaleza, promoted on the same day. 607 Michael Domenec, of Pittsburgh, promoted on the same day. 608 Thomas Grimley, of Antigonea, in the inferior province, promoted, December 13, 1860. 609 Anthony De Macedo Costa, of Belem de Para, promoted, December 17, 1860.

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CATALOGUE HIERARCHICUS 557 610 * John Kistemaker of Uraniopolis, in partibus inferioribus, promoted therein. 611 Claudius Magnin of Annecy, promoted on March 18, 1861. 612 Emmanuel Ravinet of Troyes, promoted on the same day. 613 Anthony De Vasconcellos Pereira de Mello

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of Lamego, promoted on the same day. 614 * Hadrian Wlodarski of Ibora, in partibus inferioribus, promoted therein. 615 Gerard Wilmer of Harlem, promoted on April 28, 1861. 616 George Butler of Limerick, promoted on June 12, 1861. 617 Charles Colet of Luçon, promoted on July 22, 1861. 618 Francis Le Courtier of Montpellier, promoted on the same day. 619 * Aloysius Saraiva of Saint Louis de Marignano, promoted on the same day. 620 * Joseph Esteves de Toral of Cuenca, in America, promoted therein. 621 Anthony Monescillo of Jaén, promoted on the same day. 622 Henry Maret of Soissons, in partibus inferioribus, promoted on the same day. 623 Robert Cornthwaite of Beverlacum, promoted on September 5, 1861. 624 Frederick Zinelli of Tarvisium, promoted on September 30, 1861. 625 Aloysius of Canosa of Verona, promoted on the same day. 626 Benedict Villamitjana of Tortosa, promoted on December 23, 1861. 627 * Peter Lagiiera y Menezo of Osma, promoted on the same day. 628 Francis Crespo y Bautista of Archis, in partibus inferioribus, promoted therein. 629 * Sylvester Horton Rosecrans of Columbus, promoted on the same day. 630 Augustine David of Saint-Brieuc and Tréguier, promoted on April 7, 1862. 631 Louis Nogret of Saint Claude, promoted on the same day. 632 Pantaleon Monserrat y Navarro of Barcelona, promoted on the same day. 633 Joseph Fessier of Saint Hippolytus, promoted on the same day. 634 * John Baptist Kutschker of Carren, in partibus inferioribus, promoted therein. 635 Mathias Eberhard of Treves, promoted on the same day. 636 Ignatius Guerra De Zacatecas, promoted on the same day. 637 * Joseph de la Peña of Zamora, in America, promoted on the same day. 638 * Joseph Diez De Sollano of Saint-Pol-de-Léon, promoted on the same day. 639 * John Gray of Ipsopolis, in partibus inferioribus, promoted on April 30, 1862. 640 * Henry Faraud of Anemur, in partibus inferioribus, promoted on May 8, 1862. 641 Constantine Bonet of Gerona, promoted on May 11, 1862. 642 * Lawrence Studach of Orthosia, in partibus inferioribus, promoted on May 22, 1862. 643 Bernardinus Trionfetti of Terracina, Priverno, and Setia, promoted on September 25, 1862. 644 * John Bravard of Constantinople, promoted on the same day. 645 * Francis Gainza De Caceres, promoted on the same day.

[*Latin ed. p. 558*]

558 CATALOGUE OF THE HIERARCHY 646 * Anthony Alves Martins of Viseu, promoted in the same order. 647 * Anthony Galecki of Amathuntine, in the inferior province, promoted in the same order. 648 * Mathias Maierczak of Jerich, in the inferior province, promoted in the same order. 649 Claudius Maria Dubuis of Galveston, promoted on October 15, 1862. 650 James Stepischnegg of Lavant, promoted on January 18, 1863. 651 Nicholas Conaty of Kilmore, promoted on March 11, 1863. 652 Nicholas Adames of Halicarnassus, in the inferior province, promoted in the same order. 653 Joseph Papp-Szilàgyi de Illesfalva of Magno-Varadin, of the Romanian rite, promoted on March 16, 1863. 654 * Vincent Popiel of Placenza, pro-

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moted in the same order. 655 John Baptist Greit of St. Gall, promoted in the same order. 656 * Emmanuel Palacios of Paraguay, promoted in the same order. 657 * Paul Rzewuski of Prusa, in the inferior province, promoted in the same order. 658 Fidelis Abbati of Sanctorin, promoted on March 17, 1863. 659 John Baptist Ormaechea of Tulancingo, promoted on March 19, 1863. 660 Ambrose Serrano of Chilapa, promoted in the same order. 661 John Baptist Gazailham, formerly of Vannes, promoted on April 21, 1863. 662 * Ephraem Estateos of Tocmagi, of Karput degli Armeni, Bugaunensis, and Adiamensis, of the Syrian rite, promoted on July 3, 1863. 663 John Tissot of Milevum, in the inferior province, promoted on August 6, 1863. 664 Aloysius Elloy of Tipasita, in the inferior province, promoted on August 9, 1863. 665 * Michael Hankinson of Portus Aloisii, promoted on September 6, 1863. 666 * Hilary Sillani of Callinicum, in the inferior province, promoted on September 17, 1863. 667 John Zaffron of Sebenico, promoted on September 28, 1863. 668 Nicholas Darbert of PÃ©rigueux et Sarlat, promoted in the same order. 669 Peter Le Breton of Le Puy, promoted in the same order. 670 Ignatius Moraes Cardoso of Pharan, promoted in the same order. 671 * John Dos Santos of Adamantine, promoted in the same order. 672 Eugenius Lachat of Basle, promoted in the same order. 673 * Felix Arriete of Gaditana and Ceuta, promoted on October 1, 1863. 674 John Iacovacci of Aerythrea, in the inferior province, promoted in the same order. 675 * Dominic Mayer of Cisamus, in the inferior province, promoted in the same order. 676 * Aloysius De Tola of Berissa, in the inferior province, promoted in the same order. 677 * Aloysius Buquet of Paros, in the inferior province, promoted in the same order. 678 Flavianus Matah of Iazirensis, of the Syrian rite, promoted on October 11, 1863. 679 Francis Andreoli of Cagli and Pergola, promoted on December 21, 1863. 680 Paul Micaleff of Typhernata, promoted in the same order.

[*Latin ed. p. 559*]

CATALOGUE OF BISHOPS

559 681 Anthony Pettinari of Nuceria, promoted likewise.

682 John Dours of Soissons, promoted likewise.

683 Joseph Montagut of Segorbe, promoted likewise.

684 Joseph De Oliveira of Angola, promoted likewise.

685 Aloysius D'Herhomez of Miletopolis, in the inferior province, promoted on 22 December 1863.

686 Joseph Salandari of Marcopolis, in the inferior province of the infidels, promoted on 20 March 1864.

687 Elijah Melius of Akra, of the Chaldean rite, promoted on 5 June 1864.

688 Isidorus Glut of Aeryndel, in the inferior province, promoted on 3

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August 1864.

689 John Elliot, Bishop of Bet-etme, Syncellus of the Patriarch of the Syrians, of the Syrian rite, promoted likewise.

690 John Strain of Abila, in the inferior province, promoted on 3 September 1864.

691 Thomas Nulty of Meath, promoted likewise.

692 Edward Dubar of Ganathensis, in the inferior province, promoted on 6 September 1864.

693 Edmund Guierry of Danaba, in the inferior province, promoted likewise.

694 Eugenius Charbonnier of Domitiopolis, in the inferior province, promoted likewise.

695 John Faiet of Bruges, promoted on 22 September 1864.

696 Ferdinand Dupont of Azotus, in the inferior province, promoted likewise.

697 Hyacinthus Vera of Megara, in the inferior province, promoted likewise.

698 Gaspar Mermillod of Hebron, in the inferior province, promoted likewise.

699 Agapius Dumani of Acre, of the Greek Melkite rite, promoted on 4 December 1864.

700 Angelus Kraljevic of Metellopolis, in the inferior province, promoted on 6 December 1864.

701 James Donnelly of Glogher, promoted on 10 January 1865.

702 Eligius Cosi of Priene, in the inferior province, promoted on 5 February 1865.

703 Claudius Depommier of Crysopolis, in the inferior province, promoted on 17 February 1865.

704 John Ghiureghian of Trapezus, of the Armenian rite, promoted on 25 March 1865.

705 Michael Fogarasy of Transylvania, promoted likewise.

706 William Meignan of Châlons-sur-Marne, promoted likewise.

707 Francis Gueullette of Valence, promoted likewise.

708 Stephen Ramadié of Perpignan-Elne, promoted likewise.

709 Raymond Garcia y Anton of Tuy, promoted likewise.

710 John Aragonés of Nueva Segovia, promoted likewise.

711 Hyacinthus Martínez of Saint Christopher of Havana, promoted like-

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wise.

[*Latin ed. p. 560*]

560 CATALOGUE OF THE HIERARCHY

712 Henry Bracq, of Ghent, promoted therein.

713 Joseph Gelabert, of ParanÃ¡, promoted therein.

714 John Huerta, of Puno, promoted therein.

715 Joseph Moreyra, of Ayacucho, promoted therein.

716 Emmanuel Dei Valle, of HuÃ¡nuco, promoted therein.

717 Julian Ochoa Guschensis, promoted therein.

718 Francis Risco De Chachapoyas, promoted therein.

719 Emmanuel Barrutia y Croquer, of Carystus, in a part among the infidels, promoted therein.

720 Gabriel Mariassy, Metropolitan in a part among the infidels, promoted therein.

721 Peter De Benavente, of Thespiae, in a part among the infidels, promoted therein.

722 Barnabas Garcia Cezon, of Byblus, in a part among the infidels, promoted on April 16, 1865.

723 Nicholas Power, of Sarepta, in a part among the infidels, promoted on April 24, 1865.

724 Lawrence Shiel, of Adelaide, promoted on June 23, 1865.

725 Matthew Quinn, of Bathurst, promoted therein.

726 Patrick Feehan, of Nashville, promoted on July 7, 1860.

727 John Conroy, of Albano Laziale in America, promoted therein.

728 Raphael Popow, of the Bulgarians, promoted on August 4, 1865.

729 John Baptist Swinkels, of Amori, in a part among the infidels, promoted on September 12, 1865.

730 Stephen Perez Fernandez, of MÃ¡laga, promoted on September 25, 1865.

731 Fabian Arenzana, of Calagurrit and La Calzada, promoted therein.

732 Ferdinand Ramirez y Vázquez, of JPac, in Spain, promoted therein.

733 Joseph Alvez Feijò, of Saint James Capitis Viridis, promoted therein.

734 Joachim Gonçalves de Azevedo, of GoiÃ¡s, promoted therein.

735 Emmanuel Ulloa, of Nicaragua, promoted therein.

736 Joseph Durguth, of Sion, in a part among the infidels, promoted therein.

737 John Amberg, of Europus, in a part among the infidels, promoted therein.

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738 John Marangò, of Tenes and Micon, promoted on November 13, 1865.

739 James Murray, of Maitland, promoted on November 14, 1865.

740 Boniface Toscano, of Nueva Pamplona, promoted therein.

741 Nicholas Frangipane, of Concordia, promoted on January 8, 1866.

742 Augustine Wahala, of Leitmeritz, promoted therein.

743 John Lozzano, of Palent, promoted therein.

744 Anthony lorda y Soler, of Vich, promoted therein.

745 John Pereira Botelho De Amaral, of Macao, promoted therein.

746 Joseph Romero, of Dibon, in a part among the infidels, promoted therein.

747 Joseph Barranco, of Carpasia, in a part among the infidels, promoted therein.

[*Latin ed. p. 561*]

561 CATALOGUE HIERARCHICUS

748 John Williams, of the Bostoniensis diocese, promoted on January 9, 1866.

749 Abraham Bsciai, of the Cariopolitan diocese, in the inferior clergy, of the Coptic rite, promoted on February 3, 1866.

750 Vincent Bracco, of the Magitan diocese, in the inferior clergy, promoted on March 11, 1866.

751 Charles La Rocque, of the Order of St. Hyacinth, promoted on March 20, 1866.

752 Stephen Israelian, of the Karputhensis diocese, of the Armenian rite, promoted on April 10, 1866.

753 John Hennessy, of the Dubuquensis diocese, promoted on April 24, 1866.

754 Edward Fitzgerald, of the Petriculan diocese, promoted on the same date.

755 Bernard Petitjean, of the Myriophitensis diocese, in the inferior clergy, promoted on May 11, 1866.

756 Stephen Melchisedech, of the Erzerumiensis diocese, of the Armenian rite, promoted on May 18, 1866.

757 Charles Place, of the Massiliensis diocese, promoted on June 22, 1866.

758 John Baptista Lequette, of the Atrebatensis diocese, promoted on the same date.

759 John Bécel, of the Venetensis diocese, promoted on the same date.

760 Peter Grimardias, of the Cadurcensis diocese, promoted on the same date.

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761 John Becksmann, of the Osnabrugensis diocese, promoted on the same date.

762 Ignatius Ordoñez, of the Bolivarensis diocese, promoted on the same date.

763 George Dubocowich, of the Pharensis diocese, promoted on June 25, 1866.

764 Marian Brezmes Arredondo, of the Guadixensis diocese, promoted on the same date.

765 Joseph De La Cuesta y Maroto, of the Auriensis diocese, promoted on the same date.

766 Marian Ortiz Urruela, of the Teiensis diocese, in the inferior clergy, promoted on the same date.

767 Angel Di Pietro, of the Nissenus diocese, in the inferior clergy, promoted on the same date.

768 James Chadwick, of the Hagulstadensis and Novocastrensis dioceses, promoted on August 12, 1866.

769 Emmanuel Riaño, of the Thaumacensis diocese, in the inferior clergy, promoted on August 29, 1866.

770 James Lynch, of the Arcadiopolitan diocese, in the inferior clergy, promoted on August 31, 1866.

771 Samuel Sheehy, of the Bethsaidensis diocese, in the inferior clergy, promoted on November 12, 1866.

772 Louis La Fleche, of the Anthedonensis diocese, in the inferior clergy, promoted on November 12, 1866.

773 William Lanigan, of the Gulbornensis diocese, promoted on December 18, 1866.

774 John Langewin, of the S. Germani diocese, promoted on January 15, 1867.

775 Joseph Aggarbati, of the Senogalliensis diocese, promoted on February 22, 1867.

776 Joseph Bovieri, of the Faliscodunensis diocese, promoted on the same date.

777 Julius Lenti, of the Nepesinus and Sutri dioceses, promoted on the same date.

778 Thomas Gallucci, of the Recinetensis and Lauretanus dioceses, promoted on the same date.

Acts, Volume V, Part VIII, page 36.

[*Latin ed. p. 562*]

562 CATALOGUE OF THE HIERARCHY

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779 John Baptist Cerruti, Bishop of Savona and Noli, promoted on that date.

780 Joseph Giusti, Bishop of Arezzo, promoted on that date.

781 Hannibal Barabesi, Bishop of Saint Miniato, promoted on that date.

782 Joseph Rosati, Bishop of Luni, Sarzana, and Brugnato, promoted on that date.

783 Anselm Faùli, Bishop of Gross-Scheidegg, promoted on that date.

784 Salvator Angelus Demartis, Bishop of Galtelli and Nora, promoted on that date.

785 Francis Zunnui, Bishop of Casale, Ussel, and Terralba, promoted on that date.

786 James Jans, Bishop of Augusta, promoted on that date.

787 Vincent Jekelfalusy, Bishop of Stuhlweißenburg, promoted on that date.

788 Ladislaus Biro de Kezdi-Polany, Bishop of Satmár County, promoted on February 22, 1867.

789 Stephen Pankovics, Bishop of Mukachevo (Ruthenian rite), promoted on that date.

790 Francis Gross, Bishop of Tarentaise, promoted on that date.

791 Flavian Hugonin, Bishop of Bayeux, promoted on that date.

792 Francis De Leonrod, Bishop of Eichstätt, promoted on that date.

793 Philip Manetti, Apostolic Administrator of the territory of Tripoli, which is among the infidels, promoted on that date.

794 Conceptius Focaccetti, Bishop of Lystra, in the territory of the infidels, promoted on that date.

795 Amatus Pagnucci, Bishop of Agathonica, in the territory of the infidels, promoted on March 15, 1867.

796 Caietanus Frane eschini, Bishop of Macerata and Tolentino, promoted on March 27, 1867.

797 Anthony Maria Fania, Bishop of Pienza and Marsico Nuovo, promoted on that date.

798 Andrew Formica, Bishop of Cuneo, promoted on that date.

799 Charles Savio, Bishop of Asti, promoted on that date.

800 Lawrence Gastaldi, Bishop of Saluzzo, promoted on that date.

801 Eugenius Galletti, Bishop of Alba Pompeia, promoted on that date.

802 Anthony Colli, Bishop of Alexandria of the Statellieri, promoted on that date.

803 Henry Bindi, Bishop of Pistoia and Prato, promoted on that date.

804 John Zalka, Bishop of Raab, promoted on that date.

805 Leo Thomas, Bishop of La Rochelle (-Saintes), promoted on that

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date.

806 Joseph Foulon, Bishop of Nancy-Toul, promoted on that date.

807 Augustine Hacquard, Bishop of Verdun, promoted on that date.

808 Felix De Las Cases, Bishop of Constantina and Hippo, promoted on that date.

809 Leo Meurin, Bishop of Ascalon, in the territory of the infidels, promoted on that date.

810 Gabriel Capaccio, Bishop of Mellipoli, in the territory of the infidels, promoted on May 10, 1867.

[*Latin ed. p. 563*]

CATALOGUE OF BISHOPS

563 811 Anthony Grech Delicata of Cassia, Testaferrata, Gozo, promoted May 17, 1867.

812 * John Valsh of Sandwiche, promoted July 4, 1867.

813 John Baptist Callot of Oran, promoted July 12, 1867.

814 * Joseph Cybichowski of China, in part, inferior, promoted on the same day.

815 John Baptist Zwerger of Secovi, promoted August 3, 1867.

816 Amatus Guilhert of Vapinc, promoted September 20, 1867.

817 * Marianus Cuartero y Medina of Iaren, promoted on the same day.

818 Dominic Raynaudi of Aeges, in part, inferior, promoted December 12, 1867.

819 Cornelius Mac Cabe of Ardagad, promoted December 17, 1867.

820 Raphael Corradi of Balneoregium, promoted December 20, 1867.

821 Francis Gardozo Ayres of Olinda, promoted December 20, 1867.

822 Theodore Gravez of Namur, promoted on the same day.

823 Philip Krementz of Varmi, promoted on the same day.

824 Wenceslaus Achaval of St. John of Cuyo, promoted on the same day.

825 Anthony Ganzi of Cyrene, in part, infidel, promoted on the same day.

826 * Lotharius Kubel of Leuce, in part, infidel, promoted on the same day.

827 * Paul Puginier of Mauricastro, in part, infidel, promoted January 6, 1868.

828 Michael Iacopi of Pentacomia, in part, infidel, promoted February 9, 1868.

829 Paul Tosi of Rhodiopolis, in part, infidel, promoted on the same day.

830 Stephen Fennelly of Thermopylae, in part, infidel, promoted March

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1, 1868.

831 * Thomas Becker of Wilmington, promoted March 3, 1868.

832 William O'Hara of Scranton, promoted on the same day.

833 Jeremiah Shanahan of Harrisburg, promoted on the same day.

834 * Joseph Melcher of Green Bay, promoted on the same day.

835 Michael Heiss of La Crosse, promoted on the same day.

836 * John Hogan of St. Joseph in America, promoted on the same day.

837 Bernard Mae Quaid of Rochester, promoted on the same day.

838 William Mac-Closkey of Ludwigsburg, promoted on the same day.

839 * Tobias Mullen of Erie, promoted on the same day.

840 Stephen Ryan of Buffalo, promoted on the same day.

841 James Gibbons of Adramitta, in part, infidel, promoted on the same day.

842 Louis Lootens of Castabala, in part, infidel, promoted on the same day.

843 * Joseph Macheboeuf of Epiphani, in part, infidel, promoted on the same day.

844 * Augustus Ravoux of Limyra, in part, infidel, promoted March 3, 1868.

845 John Perger of Kaschau, promoted March 13, 1868.

[*Latin ed. p. 564*]

564 CATALOGUE OF THE HIERARCHY

846 Charles Bermundez of Popayán, promoted therein.

847 Valerius Ximenez of Medellin and Antioch, promoted therein.

848 Charles Anthonis Costantiensis, promoted in the portion among the infidels on March 16, 1868.

849 Salvator Magnasco of Bolina, in the portion among the infidels, promoted on May 7, 1868.

850 John Bagalà Biasini of Cydon, in the portion among the infidels, promoted on May 12, 1868.

851 Thomas Gentili of Dionysias, in the portion among the infidels, promoted on June 7, 1868.

852 Ivo Maria Croc of Laranda, in the portion among the infidels, promoted therein.

853 George Marchich of Gatara, promoted on June 22, 1868.

854 Benedict Sans y Fores of Oviedo, promoted therein.

855 Joseph de Urquinaona of Ganaria and of Saint Christopher of Laguna, promoted on June 22, 1868.

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856 Michael Kuziemski of Chelm and Beltia, promoted therein.

857 Joseph Torres De Arequipa, promoted therein.

858 Leander Rodríguez De La Gala of Jucatan, promoted therein.

859 Vincent Marquez De Antequera, promoted therein.

860 Raymund Comaco De Queretaro, promoted therein.

861 Joseph Salinas De Durango, promoted therein.

862 Victor Diez of Coro, promoted therein.

863 Joseph Szabò of Nilopolis, in the portion among the infidels, promoted therein.

864 Francis Granado of Trohada, in the portion among the infidels, promoted therein.

865 Adolphus Namszanowski of Agathopolis, in the portion among the infidels, promoted therein.

866 Francis Laouenan of Flaviopolis, in the portion among the infidels, promoted on July 5, 1868.

867 Ephraem Maria Garrelon of Nemesis, in the portion among the infidels, promoted therein.

868 Leonard Mellano of Olympus, in the portion among the infidels, promoted therein.

869 Christopher Bonjean of Medes, in the portion among the infidels, promoted therein.

870 Peter Nuñez of Coria, promoted on September 24, 1868.

871 Peter De Lacerda of Saint Sebastian of Fluminis Ianuarii, promoted therein.

872 Callixtus Glavigo of La Paz in Bolivia, promoted therein.

873 John Kraft of Gastoria, in the portion among the infidels, promoted therein.

874 Ignatius Mrak of Marianopolis and Marquette, promoted on September 25, 1868.

875 John Sallepoint of Dorylis, in the portion among the infidels, promoted therein.

876 Francis Tagliabue of Pompeiopolis, in the portion among the infidels, promoted therein.

877 John Mac-Donald of Nicopolis, in the portion among the infidels, promoted on December 3, 1868.

878 John Baptist Maneschi of Verula, promoted on December 21, 1868.

[*Latin ed. p. 565*]

CATALOGUE HIERARCHICUS 565 879 Joseph Orrego De Serena, promoted as above. 880 Gaspar Willi Antipatrensis in the inferior clergy, promoted as above. 881 Gabriel Farso of Mardensis, of the Chaldean rite, ap-

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pointed on March 22, 1869. 882 Stephen Lipovniczky of Lipovnok, of Magnovaradinensis, promoted on April 20, 1869. 883 Felix Ridel of Philippopolis, in the inferior clergy, promoted on April 27, 1869. 884 Peter Van Ewjik of Camacenis, in the inferior clergy, promoted on June 8, 1869. 885 Sigismund Kovács of Quinque Ecclesiensis, appointed on June 25, 1869. 886 Joseph Vriarte De Sonora, promoted as above. 887 Emmanuel De Conde of St. Aloysius, of Potosiensis, appointed as above. 888 Anthony Yturralde of Ibarrensis, promoted as above. 889 Alexander Valsecchi of Tiberiadensis, in the inferior clergy, appointed as above. 890 Joseph Aristegui of Himeria, in the inferior clergy, promoted as above. 891 Peter Baltes of Altonensis, promoted on September 24, 1869. 892 Augustus Maria Toëbbe of Convinctoniensis, promoted as above. 893 Timothy O'Mahony of Armidale, appointed on October 1, 1869. 894 Martin Griver of Tloanus, in the inferior clergy, promoted as above. 895 Marcellus Touvier of Olenensis, in the infidel clergy, promoted as above. 896 Basil Nasser of Heliopolitanus, of the Greek Melkite rite, promoted on October 17, 1869. 897 Emericus Szabò of Sabariensis, promoted on October 22, 1869. 898 Robert Mayr of Paneadensis, in the inferior clergy, promoted as above. 899 Thomas Foley of Pergamensis, in the inferior clergy, appointed on November 19, 1869. 900 Joseph De Hefele of Rottemburgensis, appointed on November 22, 1869. 901 Germanus Villalvaso of De Chiapa, promoted as above. 902 Francis Xavier Rodríguez of St. Cross, of De Sierra, promoted as above. 903 Joseph Lizarzabaru of Guayaquilensis, promoted as above. 904 Joseph Isaza of Evariensis, in the inferior clergy, promoted as above. 905 John Cirino of Derbensis, in the inferior clergy, promoted as above. 906 John Barbero of Dolychensis, in the inferior clergy, appointed on January 21, 1870. 907 Joseph Perché of Abdera, in the inferior clergy, appointed on February 8, 1870. 908 Gaspar Borgess of Calydonensis, in the inferior clergy, promoted as above. 909 John Cameron of Titopolitanus, in the infidel territories, promoted on March 11, 1870. 910 Gerard Bray of Lengonensis, in the inferior clergy, appointed on March 15, 1870. 911 Peter Paul De Cuttoli of Adiacensis, appointed on March 21, 1870.

[*Latin ed. p. 566*]

912 Charles Freppel, Bishop of Angers, promoted therein.

913 Joseph Reyne, Bishop of Guadalupe, promoted therein.

914 Emmanuel Restrepo, Bishop of Pasto, promoted therein.

915 Ignatius Parra, Bishop of PanamÃ¡, promoted therein.

916 Joseph Maria Mora, Bishop of Veracruz, promoted therein.

917 Frederick Aneyros, of the lower rank, of Aulon, promoted therein.

ABBOTS OF NO DIOCESE

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Reverend Fathers:

918 William De Cesare, General of the Congregation of the Virgins of Montevergine, promoted May 9, 1859.

919 Julius De Ruggero, of the Order of Saint Benedict, of the Most Holy Trinity of Cava de' Tirreni, promoted November 18, 1860.

920 Charles De Vera, of the Order of Saint Benedict, of the Territorial Abbey of Montecassino, promoted May 23, 1863.

921 John Kruesz, of the Order of Saint Benedict, of the Territorial Abbey of Pannonhalma, promoted September 5, 1865.

922 Leopold Zelli Iacobuzzi, of the Order of Saint Benedict, of Saint Paul of Rome, promoted August 28, 1867.

923 Romaric Flugi, of the Order of Saint Benedict, of the Saints Nicholas and Benedict of Monaco, promoted May 21, 1868.

ABBOTS GENERAL OF MONASTIC ORDERS WHO ENJOY THE USE OF THE MITRE

Reverend Fathers:

924 Henry Van den Wymelenberg, Abbot of the Monastery of Saint Agatha of Cuyk, General Master of the Order of Regular Canons of the Order of the Holy Cross.

925 Albert Passeri, Abbot of the Canonry of Saint Agnes outside the walls of Rome, General Vicar of the Congregation of Regular Canons of the Lateran of the Most Holy Savior.

[*Latin ed. p. 567*]

CATALOGUS HIERARCHICUS 567 926 * Aloysius Garces, Abbot of the Monastery of the Most Holy Savior of Messina, General Visitor of the Order of Saint Basil of the Greek Rite. 927 * Lewis Paschal Prosper Guéranger, Abbot of the Monastery of Saint Peter of Solesmes, of the Order of Saint Benedict, President of the Congregation of France. 928 Henry Schmid, Abbot of the Monastery of Saint Mary of Einsiedeln, of the Order of Saint Benedict, President of the Congregation of Switzerland. 929 Richard Placidas Bürchau, Abbot of the Monastery of Saint Peter of Westminster, of the Order of Saint Benedict, President of the Congregation of England. 930 Boniface Wimmer, Abbot of the Monastery of Saint Vincent in Pennsylvania, of the Order of Saint Benedict, President of the American Congregation in the United States. 931 Utto Lang, Abbot of the Monastery of Saint Michael of Metz, of the Order of Saint Benedict, President of the Congregation of Bavaria. 932 Henry Corvaja, Abbot of the Monastery of Saint Flavia of Caltanissetta, of the Order of Saint Benedict, President of the Congregation of Italy. 933 * Emmanuel of Saint Cajetan, Pinto, Abbot of the Monastery of Saint Sebastian of Bahia of

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All Saints, of the Order of Saint Benedict, President of the Congregation of Brazil. 934 Germanus Gai, Abbot of the Monastery of Saint Praxedis of the City, General of the Congregation of Vallombrosa. 935 Theobald Cesari, Abbot of the Monastery of Saint Bernard at the Baths of the City, General of the Cistercian Order. 936 Adamus Adami, Abbot of the Monastery of Saint Benedict of Fabriano, General of the Congregation of Saint Sylvester. 937 Elias Elisaeus, of the Order of Saint Anthony, General Abbot of the Congregation of Saint Hormisda of the Chaldean Rite. 938 * George Scebbabi, of the Order of Saint Anthony, General Abbot of the Congregation of Aleppo of the Maronite Rite. 939 * Ephraem Bscerrani, of the Order of Saint Anthony, General Abbot of the Congregation of Baladita of the Maronite Rite. 940 * Joseph Badhati, of the Order of Saint Anthony, General Abbot of the Congregation of Saint Isaiah of the Maronite Rite. 941 * John Kahhil, of the Order of Saint Basil, General Abbot of the Congregation of the Most Holy Savior of the Greek Melchite Rite. 942 Basil Grifoni, of the Order of Saint Benedict, Abbot of the Monastery of Saints Andrew and Gregory on the Coelian Hill, General Vicar of the Congregation of Camaldoli.

[*Latin ed. p. 568*]

568 CATALOGUE HIERARCHICUS 943 Thimotheus Gruyer, Abbot of the House of God of the Blessed Virgin Mary of Trapp, General Vicar of the more recent reform of the Cistercian Order in France. 944 Ephraem van der Meulen, Abbot of the Mount of Olives of the Blessed Virgin Mary of Trapp, General Vicar of the older reform of the Cistercian Order in France. 945 Benedictus Santini, of the Order of Saint Benedict, Abbot of the Archiebasilica of Monte Oliveto Maggiore in Etruria, General Vicar of the Olivetan Congregation. 946 Reverend Father Casimir Sosnowski, Dean of the Cathedral Church of Lublin, Apostolic Administrator of the Diocese of Podlachia in the Apostolic Exarchate of Russia.

MODERATORS AND GENERAL VICARS OF CONGREGATIONS OF REGULAR CLERICS

Reverend Fathers

947 Alexander Maria Teppa, Superior General of the Congregation of Saint Paul.

948 Bernardinus Sandrini, Superior General of the Somascan Congregation.

949 Petrus Beckx, Superior General of the Society of Jesus.

950 Quiricus Quirici, Rector General of the Congregation of the Mother of God.

951 Joseph a Calasanctio Casanovas, Superior General of the Congregation of the Piarist Schools.

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952 Franciscus Maria Cirino, General Vicar of the Congregation of Regular Clerics.

953 Joseph Maria Novaro, General Vicar of the Congregation of the Regular Minor Clerics.

954 Caminus Guardi, General Vicar of the Congregation of Regular Clerics Ministering to the Infirm.

[*Latin ed. p. 569*]

CATALOGUE OF THE HIERARCHICAL ORDERS: 569 MONASTIC ORDERS. Reverend Fathers: 955 * Gregory Cioci, of the Order of Saint Benedict, Major of the Congregation of the Camaldolese Hermits of Hetruria. 956 * Rinaldus Lesti, of the Order of Saint Benedict, Major of the Congregation of the Camaldolese Hermits of Mount Corona. 957 Charles Maria Saisson, Prior General of the Carthusian Order. 958 * Thomas Cabbasce, of the Order of Saint Basil, Abbot General of the Greek Melkite Congregation of Soarita of Aleppo. 959 * Demetrius Giamed, of the Order of Saint Basil, Abbot General of the Greek Melkite Congregation of Soarita of Baladita. ORDERS OF THE MENDICANT FRATERS. Reverend Fathers: 960 Vincentius Jandel, Master General of the Order of the Preachers. 961 Bernardinus a Portogruario, Minister General of the Order of the Friars Minor. 962 Ludovicus Marangoni, Minister General of the Order of the Friars Minor Conventual. 963 Nicolaus a Sancto Ioanne, Minister General of the Order of the Capuchin Friars Minor. 964 Ioannes Bellomini, Prior General of the Order of the Eremites of Saint Augustine. 965 Dominicus a Sancto Ioseph, Praepositus General of the Order of the Discalced Carmelites. 966 Ioannes Angelus Mondani, Prior General of the Order of the Servants of the Blessed Virgin Mary. 967 Raphael Ricca, Corrector General of the Order of the Minim Friars. 968 Benedictus a Virgine, Minister General of the Discalced Fathers of the Order of the Most Holy Trinity for the Redemption of Captives. 969 Carmelus Patergnani, General of the Hieronymian Order, Congregation of Saint Peter of Pisa. 970 Victorius Menghini, General of the Order of the Fathers of Penance.

[*Latin ed. p. 570*]

570 CATALOGUE OF THE HIERARCHY 971 Francis of Salerno, General Vicar of the Third Regular Order of St. Francis. 972 Innocent of St. Albert, General Vicar of the Order of Discalced Fathers of St. Augustine. 973 Angel of Savina, General Vicar of the Order of Carmelites of the Old Observance. 974 Joseph Mary Rodriguez, General Vicar of the Royal and Military Order of the Most Holy Mary of Mercy for the Redemption of Captives. 975 Anthony Martin y Bienes, General Vicar of the First Order of the Most Holy Trinity. - FATHERS OF THE HOLY COUNCIL Who died from December 10, 1869, to April 30, 1870. Francis Pentini, Most Holy Roman Cardinal Deacon of St. Mary in Portico. Charles of Reisach, Most Eminent Cardi-

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nal Bishop of Sabina. Eustachius Gonella, Most Eminent Cardinal Priest, Bishop of St. Mary super Minerva, and Bishop of Viterbo and Tuscania. Anthony Manastyrski, Bishop of Presmiliensis. Bernard Frascolla, Bishop of Fodiana. Edward Vasquez, Bishop of PanamÃ¡. Francis Suarez Peredo, Bishop of Veracruz. Bernard Mascarou Laurence, Bishop of Tarbais. Marian Puigllat y Amigo, Bishop of Illerda. Basil Gil y Bueno, Bishop of Oscensis and Barbastro-MonzÃ³. Jerome Zeidler, Abbot, General President of the Order of PrÃ©montrÃ©. Raphael Biale, Bishop of Albigana. The others who died in the month of May are indicated by J $ I •aa-

[*Latin ed. p. 571*]

FROM THE HOLY CONGREGATION OF THE COUNCIL OF TRENT, REGARDING THE INTERPRETATION OF THE DISPENSATION OF MARRIAGE, dated December 18, 1869, and May 28, 1870. Summary of the case: Anthony, aged twenty-five years, contracted marriage with Rose, a girl of nineteen years. Such a marriage was joyfully celebrated, but did not have a happy outcome. It is affirmed that the wife could not, in almost six days and nights, be induced to consummate the marriage, neither by enticements nor by reproaches, nor by threats and violence. Therefore, such hatred arose between these spouses that the husband, on the sixth day, no longer wished to receive his wife, who had repeatedly returned to her parents, and the wife declared that she was more prepared to take her own life than to again endure cohabitation with an impious and cruel husband, as she said. It is unbelievable how much the parents, the parish priest, the district archdeacon, and others labored, so that the desired peace and harmony might finally flourish with reconciled spirits; but since all had come to naught, the Consistory of the Diocesan See, on January 27, 1859, came to the decision to permit them separate dwellings until they might return to better counsels. Three years elapsed without any hope of reconciliation appearing; indeed, hatred and scandals increased daily. Wherefore, the Ordinary of that diocese, by order of the Most Holy Lord, on October 28, 1864, requested that he might be pleased to grant a dispensation concerning this marriage. After these petitions were presented to the Holy Congregation of the Council, and in order that, on account of the poverty of the spouses, the matter might be treated economically, a response was made to the Bishop, to the effect that, after a preliminary investigation, a process should be prepared, both concerning the non-consummation of the marriage, and concerning...

[*Latin ed. p. 572*]

572 Regarding the causes for a dispensation from marriage, the rules and regulations to be observed, and especially the form of the Constitution of Our Most Holy Father Benedict XIV, by the grace of God, it is instructed that the parties should present their rights before the Holy Congregation,

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and that the process itself should be transmitted in a complete and authentic copy to the same Holy Congregation. The Bishop has fully fulfilled these instructions. For, having appointed a defender of the marriage, the spouses, along with witnesses, were immediately summoned for examination under oath. The woman recounted in detail the events of those days, affirming that she had never intended to consummate the marriage; the man repeated the same. The reason for which she had so firmly refused to consummate the marriage was that she was unaware that such an act was joined to marriage; and she was certain that she could live with the man, as she had previously lived with her parents. She also affirmed that she would never give her body to this man, nor to any other. She said that she had entered into the marriage under the persuasion of her mother. All the witnesses present testified that the spouses were honest, virtuous, and worthy of belief, and that the marriage had not been consummated; which was also testified by other witnesses. Finally, an examination of the woman's body was carried out with the utmost diligence by midwives, and it was unanimously concluded that she was still a virgin. With all of these matters brought to a conclusion, the Bishop transmitted the process to the Holy Congregation, expressing his opinion in favor of the dispensation from marriage, so that a remedy might be provided for the many evils that would otherwise result. The process was then given to a theologian and a canonist, so that they might express their opinions; and after all these matters were presented to the defender of the marriage, who made customary observations, the case was presented before the Holy Congregation. Both the theologian and the canonist demonstrated that the marriage had not been consummated; which was evident from the very acts of the process. They also demonstrated that there were several reasons that were suitable for advising the Holy Father to grant the dispensation, among which the canonist suggested that it was not improbable that the woman suffered from some disease of frigidity, which could occur in women.

[*Latin ed. p. 573*]

DISPENSATIONIS MATRIMONII 573. The defender of the marriage argued that, at the very least, a dispensation should be denied; then, citing the obligation derived from marriage, as taught by the Apostle Paul in 1 Corinthians, chapter 7, verse 3: "Let the husband render the debt to his wife: and the wife also in like manner to the husband. The woman hath power over her own body, but not the husband." Also, referring to Ephesians, chapter 5, verse 22: "Let women be subject to their husbands, as to the Lord." Furthermore, because in another case of this kind, on March 15, 1856, the Holy Congregation had judged that a dispensation should be denied. It is appropriate to recount the details of this case. Joseph, being of advanced age, had married Catherine. The woman was never able to be brought into the marital home to fulfill her marital duties, and finally, she

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returned to her own home. Later, the husband, with the woman's consent, appealed to the court, seeking a declaration of the nullity of the marriage due to the woman's lack of understanding or knowledge of her marital duties; but the case failed, and the initial judgment was confirmed by the judges of the second and third instances. Finally, the man appealed to the Holy See, seeking a declaration of the nullity of the marriage, or at least a dissolution of the marriage through an Apostolic dispensation. Both the theologian and the canonist agreed in judging the marriage to be valid but not consummated; however, there were completely lacking grounds for a dispensation, since the woman later demonstrated her willingness to consummate the marriage, and she herself did not seek a solution. Regarding the question: "Should the Holy See be consulted regarding a dispensation from a marriage that is valid but not consummated in this case?" The Holy Congregation responded: negatively. Furthermore, the question: "Should the Holy See be consulted regarding a dispensation from a marriage that is valid but not consummated in this case?" RESOLUTION. The Holy Congregation of the Council, having knowledge of the case on December 18, 1869, judged that it should respond: Affirmatively, forbidding the woman from entering into new marriages without the consent of the Holy Congregation; and this should be notified to the woman before any new proposal. CONTINUATION OF THE CASE. The Bishop, obeying the mandate of the Holy Congregation, responded: "Having received the letters of Your Eminence..."

[*Latin ed. p. 574*]

574. CONCERNING THE DISPENSATION OF MARRIAGE: "I communicated to the local parish priest, who is also a Vice-Archdiaconus of the district, about the matter concerning the woman, as had been entrusted to me. The woman, Rosa N., fully understanding the situation, responded that she fully agreed with this condition; indeed, she expressed a strong desire that this matter, which has been delayed for twelve years, be finally concluded. Regarding new marriages, she said that she was not, at least for the present, considering them at all, and that if, by God's grace, she were to desire them in the future, she would not enter into them without the consent of the Holy Congregation. New observations were recorded by the Defender of the Marriage, who was entirely focused on the point that marriage should not be dissolved without serious reasons; that the woman should be compelled by ecclesiastical censures to fulfill her marital duties, since, having entered into marriage, she does not have power over her own body, but her husband does; and that marriage is a partnership of all life. Therefore, a new proposition concerning the case was made, according to the method prescribed in the Benedictine Constitution, to the formula of doubt: "Whether one should adhere to or depart from the decisions in this case." The Holy Congregation responded on May 28, 1870: "Adhere

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to the decisions." FROM WHICH WE GATHER: I. That a marriage is valid, even if one of the spouses later claims to have been ignorant of the marital duty, and affirms that, had they known this, they would not have entered into the marriage. II. That, for any contract to be valid (especially if it entails more than one obligation), it is not required that the parties know all the duties and obligations that derive from the contract itself; but it is sufficient that the will of the contracting parties be directed towards the contract as a whole, as is customary among others. III. That, if the marriage remains valid due to the woman's obstinate refusal, and a separation of spirits ensues, if there is no hope of reconciliation, the spouses may usefully request an Apostolic dispensation to begin living separate lives. IV. In the present case, in addition to the irreconcilable separation of spirits due to the aforementioned cause, there is no suspicion that the woman suffers from any defect of frigidity.

[*Latin ed. p. 575*]

IMMISSIONIS: Die 4 September 1869 et 26 Martii 1870. Compendium facti. Franciscus B, in testamento suo anno 1870, instituit capellaniam, his verbis: "Constituit et fundat ius patronatus laicale, sub invocatione Sanctae Margaritae, fundandum et erigendum in altare eiusdem Sanctae, quod existit in templo, declarans et protestans, dictum ius patronatus esse debere mere laicale, neque ullam habeat mixturam ecclesiasticam, ita ut nec ecclesia nec persona aliqua nomine ecclesiae possit aliquo modo sese ingerere ex quocumque titulo." Quoad ius activum nominandi seu praesentandi, haec constituit: "Dictum ius patronatus liberum maneat et immune favore personarum pro quibus ipsum testator instituit, commendans et iubens ius praesentandi esse debere tum masculorum tum feminarum ex Petro B eius germano fratre eorundemque heredibus et descendentibus in infinitum..." Quoad ius passivum disposuit: quod si casus detur, quod dicti mei heredes et nepotes eorundemque familia in infinitum essent in Clerici et solum possent retinere dictum Beneficium seu ius patronatus, nunc pro tunc nomino unum ex eis qui sit magis idoneus." Bonorum dotem huic Beneficio constituit: atque onus, quod Capellano iniunxit, consistit in celebratione Missae singulis Sabbatis a nominato et praesentato Capellano. Immo si possessionem Capellaniae caperent Clerici, qui nondum Sacerdotio essent initiati aut nollent ad Sacerdotium progredi, quum tamquam Beneficiarii tenerentur satisfacere Missae celebrationi, possent eam celebrare per alios. Voluit denique, ut capellania tum erigeretur, quando eius uxor ac heres usufructuaria migrasset e vita. Anno 1719 eius uxor e vita migravit: sed nullum vestigium habetur de aliqua capellaniae erectione: constat tamen quendam Clericum Philippum M institutum fuisse in capellania, institutionibus litteris ab Ordinario habitis, quamvis extraneus a cog-

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natione testatoris; eidemque Philippo successisse anno 1785.

[*Latin ed. p. 576*]

576 In another instance at Clericum, a relative of the testator, but through similar episcopal letters or institutional bulls, as they were called, was granted [possession]. In the year 1810, when the chaplaincy was vacant, a certain Peter B., burdened by poverty, obtained from the Supreme Pontiff Pius VII, *ad perpetuam* [for a perpetual grant], that the administration of the chaplaincy should belong to his family, both for himself and for his descendants without end, with the condition that the expenses be paid from the revenues. This right continued in his male descendants until the year 1855. The surviving widow and her daughters obtained a new Indult [grant] due to their poverty, expressed in these terms: "For a period of ten years, with a suitable ecclesiastical administrator, a man, who, after paying the expenses, shall deliver the remaining revenues to the petitioner for the support of herself and her family, at the discretion and conscience of the Bishop." As the term of this Rescript approached, and with renewed prayers for the extension of this Indult, a certain Benedict, a cleric descended from the B family through the female line, opposed it, claiming "that the chaplaincy or the possession of its goods belonged to him." A Rescript was then issued stating that there was no basis for extending the Indult, but that the use of the house should remain available to the widow and her daughters as long as they remained unmarried, with the approval of the Holy See. Consequently, a dispute arose between the cleric Benedict and the widow regarding a certain part of the chaplaincy's property, and, by the judgment of the episcopal court, Benedict was victorious, and obtained possession of the property by that judgment; however, having abandoned his clerical status, he devoted himself to the study of medicine. While this dispute was being conducted in the episcopal court, another descendant of the B family, named Alphonsus, a young man, received the clerical tonsure. When the widow appealed the judgment of the court to the S. C. C. [Sacra Congregatio Consilii], especially on the grounds that she wished to retain possession of the property, the aforementioned young cleric Alphonsus requested intervention from the Holy See in the matter, in order to claim the chaplaincy for himself. Thus, three parties were contending for possession of the chaplaincy's property. A synoptic summary of the arguments: THE WIDOW'S RIGHTS. The widow B, and her daughter, maintained that neither of the claimants, the clerics, could enjoy possession of the chaplaincy's property, because the chaplaincy was an ecclesiastical benefice.

[*Latin ed. p. 577*]

IMMISSIONIS 577, pertaining to ecclesiastical matters, not to lay affairs; that is to say, a true ecclesiastical benefice was to be obtained through

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papal bulls from the Bishop, or through canonical institution: and this was acquired by those who had previously received it through episcopal letters of institution, which are issued by the Ordinaries when dealing with an ecclesiastical benefice. They maintained that this had not been done through error; but rather, through the very nature of the chaplaincy: for when a chaplaincy is established which has a particular endowment, a proper title, its own altar, a fixed obligation of Masses, it is to be considered ecclesiastical. However, neither of the two Clerics had obtained canonical institution from the Bishop; therefore, neither could enjoy the benefits of the chaplaincy. Nor could canonical institution be granted to either of the Clerics by the Bishop, because Dominic, having abandoned his clerical habit, thereby forfeited all right to obtain an ecclesiastical benefice; and Alphonsus was not of the age required by the sacred canons for obtaining a benefice; and therefore, since neither was suitable, the judgment of the Court, which had awarded the possession of the goods to the women, was to be upheld, and Benedict was to be allowed to enjoy his rightful inheritance.

THE RIGHTS OF BENEDICT. He, observing that Alphonsus was opposing him, and claiming to be descended from the founder and to have received the sacred tonsure, maintained that, by the judgment of the Court, he had acquired the possession of the goods, and that no one should obstruct him; and he endeavored to demonstrate this, first, because the chaplaincy should no longer be considered vacant, but full, and therefore, an intervention in the case requested by Alphonsus was too late; and second, because there was no reason why he should be deprived of the right acquired through the judgment of the Court. He affirmed that the relinquishment of the clerical habit did not, by itself, deprive a cleric of possession of the chaplaincy; but rather, it was necessary that a threefold canonical admonition precede, according to the Constitution of Benedict XIII, dated October 1, 1724, which begins "In supremo militantis."

THE RIGHTS OF ALPHONSUS. Alphonsus's advocate, citing the words of the testator, argued that the chaplaincy in question was, in every way, a lay institution; nevertheless, a chaplain should be a cleric, according to the case presented by Rigantius in Reg. 58 of the Chancery, number 59; and therefore, the women could not possess its goods. Nor could the letters of institution be opposed, by which the Bishop had, on one or more occasions, granted the chaplaincy.

[*Latin ed. p. 578*]

578 If they have presented the application for the benefice as if it were an ecclesiastical, and not a lay, position: for a chaplain cannot change the nature of his chaplaincy through a single act of the bishop, as is commonly taught by the authorities. Therefore, excluding women from possessing the goods, the entire question revolves around Benedict and Alphonsus, since both were initiated with sacred tonsure and were of the same degree of

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kinship. However, in this case, the testator stipulated that the more suitable one should be preferred. Since the testator did not specify the conditions by which one might be judged more suitable, those conditions must be derived from common law. Furthermore, there are two reasons why Alphonsus should be preferred to Benedict: first, because Alphonsus was a cleric and acted as a cleric; whereas, Benedict had renounced the clerical state, having laid aside his habit and devoted himself to the art of medicine; and second, because Alphonsus was poor, and Benedict was wealthy. Regarding the first reason, it could not be objected that the testator said that clerics could fulfill the celebration of the Mass through another if they did not wish to ascend to the priesthood: for, according to the same intention of the testator, clerics should remain who are suitable for obtaining and possessing the benefice (thus the testator called the chaplaincy); but one cannot be considered a beneficiary who, having abandoned his clerical habit, dedicates himself to secular affairs: which would be contrary to the sacred canons. To this, it must be added the custom by which, from its origin, the chaplaincy has always been given to clerics: which, if something different occurred from the year 1810, would have been done by Apostolic grace and indulgence. To confirm the second reason, the Advocate stated that poverty is counted among the causes for preferring one to another. According to the text in Chapter Is cui, de Praeb, in 6°, where Amostaxo and others state: "and there is another reason in benefices, namely, poverty: therefore, whenever a poor person is present along with a wealthy person who is equally suitable, the poor person should be preferred, because in poverty not only does grace occur, but also piety and mercy." Therefore, since Alphonsus was a cleric and served the Church as a cleric, and since the canonical laws favor poor clerics more than wealthy ones, it spontaneously follows that Alphonsus is more suitable than Benedict for obtaining the chaplaincy.

[*Latin ed. p. 579*]

IMMISSIONIS 57. Dubium. "Utrum, et quomodo, et cuius favore sit data permissio in tali casu." RESPONSIO. Sacra Congregatio, causa cognita die 4 Septembris 1869, emisit resolutionem, scribens ad Episcopum ut, postquam acta Cancellariae et SS. Visitationum investigata sunt, de natura capellaniae referat. Sed, postquam in Curia episcopali investigatio peracta est, nihil repertum est quod ad rem pertineret. Episcopus tamen animadvertit Bullas episcopales, quae, licet possint adhiberi ut argumentum ad dicendum capellaniam ecclesiasticam, voluntatem fundatoris mutare non possunt. Itaque, proposita causa sub eadem dubitandi formula die 26 Martii 1870, Sacra Congregatio censuit respondere: "Affirmative, favore Clerici (Iosephi), praevia dispensatione super aetate et deputato per Episcopum ecclesiasticum, ut administrator bonorum." Ex QUIBUS COLLIGIS: I. Non debere confundere ius patronatus laicale cum Beneficio seu capellania laicali

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(1). (1) Beneficia laicalia, seu melius, capellaniae laicales vel legata pia, sunt quaedam piae institutiones, in quibus auctoritas ecclesiastica non aliam partem habet praeter eam quae a fundatoribus et a iure conceditur. Quod autem a iure conceditur est ut invigilet ne voluntas pii fundatoris pervertatur. Quare si a fundatore auctoritas ecclesiastica excludatur, ea non potest intervenire, "nisi ad admitten dam hanc ipsam voluntatem fundatoris et ad vigilandum, ut voluntas testatoris servetur, nisi et in hoc excludatur, de qua re videsis tamen quae scripsi in Ap. X Vol. II p. 369. Capellaniae ecclesiasticae iurispatronatus laicales sunt institutiones vere ecclesiasticae et considerantur et sunt Beneficia ecclesiastica: iuspatronatus enim sive pertineat ad laicos sive ad ecclesiasticos ratione ecclesiastici tituli (quo casu ius patronatus ecclesiasticum appellatur), efficit tantum ut Beneficia ecclesiastica non sint liberae collationis. Iuspatronatus enim sive laicale sive ecclesiasticum tribuit ius patronis praesentandi idoneos et dignos ad Beneficia ecclesiastica: et Episcopus tenetur acceptare hos idoneos et dignos praesentatos, quos tamen sua auctoritate in Beneficia ecclesiastica immittit; quae immissio appellatur canonica institutio. Quum autem fiat auctoritate episcopali, expediuntur litterae solemnes, quibus ecclesiastica auctoritas manifestatur.

[*Latin ed. p. 580*]

580. II. The principal signs of an ecclesiastical chaplaincy are that it be founded by an order from the founder, which does not exclude the intervention of ecclesiastical authority through the solemn decree of erection; the nature of the chaplaincy, which possesses all those qualities that can be found in ecclesiastical benefices; and the manner in which the foundation was understood, at the time closest to the foundation, by those whose interests are involved. III. In the present matter, it appears that all of these things have been present to judge whether there is an ecclesiastical chaplaincy; for the words are merely secular, and similar, and were not given by the founder in reference to the chaplaincy, but to the right of patronage, which he wished to be not ecclesiastical, but secular (1).

(1) Compare the case which I have explained on pages 197 and following.

[*Latin ed. p. 581*]

IRREGULARITY. February 19, 1870. Summary. John, a parish priest and external vicar of the town of N, aged forty-four years, was struck by apoplexy in the year 1868 and lost the use of his left arm. With the aid of medical treatment, he is now able to walk and move his arm, although he has not yet regained the full use of that limb. He petitioned the Most Holy Father, imploring that he might lawfully celebrate the Sacrifice of the Mass under these circumstances, for, as is known, those whose infirmities, or whose defects, would introduce a blemish into the sacrifice,

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or would impede the observance of the sacred ceremonies, are excluded from celebrating the sacrifice by law and ecclesiastical custom, and are therefore called irregular. After these petitions were heard, the Bishop was requested, according to custom, to report after an examination before the master of ceremonies, whether there was any danger of irreverence in performing the acts of the Sacrifice. He responded: "After the experiment, the priest John was able to celebrate Mass before the people, as do the aged; the only defect consisted in his left hand and arm, which he could not raise higher than the altar table; however, he could extend his hand up to the foot of the chalice; he could indeed, although with some difficulty, break the sacred Host over the paten; he could with some patience collect the fragments, purify the chalice, and cover and uncover it; he could perform all these things by himself without the aid of another, and there is no evident danger of irreverence. If he were assisted by another priest, things would proceed much better." This is from the report given by the master of ceremonies. Then the Bishop implored that the Holy See might exercise every indulgence towards him, because he was the best priest available, to whom the means were lacking to sustain his life. After the usual admonitions, which can be gathered from other cases of this kind, the principal of which is that the Holy See should be more lenient in granting indulgences to those who have already been promoted to the sacred orders, than in promoting them; after the petitions were presented in the Congregation held on February 19, 1870.

[*Latin ed. p. 582*]

582. The Sacred Congregation has decreed: For the granting of a dispensation, the assistance of another priest, or at least a deacon, is required, provided that the illness is not aggravated. From which it is gathered: I. That the only reason for which someone is considered irregular with respect to offering the Sacrifice is irreverence, or the danger of irreverence. II. That the term "irregular" is understood in canonical jurisprudence in at least two senses. III. In the first and most common sense, "irregular" is said of one who, by a particular act, has become absolutely excluded from all sacred ministrations by law, as is the one who has violated legitimately imposed censures. IV. In the other sense, "irregular" is said of one who, due to a physical defect, is legally or customarily excluded from offering the Sacrifice because of irreverence. V. From this distinction, it follows that one who has become irregular in the first manner cannot be habilitated except by Apostolic authority; whereas, one who is irregular in the second manner remains irregular, without Apostolic permission, so long as the danger of irreverence persists, and therefore cannot offer the Sacrifice.

[*Latin ed. p. 583*]

FROM THE HOLY CONGREGATION OF BISHOPS AND REGULAR

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CANONS CONCERNING FUNERAL RITES. May 6, 1870. Summary of the Case. In the town of N, in Italy, there exists a monastery of Regular Canons which remained intact during the general suppression of the Regular orders. It is reported that, since ancient times, the inhabitants of that town, being far from their parish church, were buried in the church of the aforementioned Regular Canons. However, in subsequent times, when a parish church was established in the same town of N, disputes arose between the Parish Priest and the Regular Canons concerning the right to bury and perform funeral rites. In order to resolve these disputes, certain agreements were entered into and ratified between them in the year 1744: in such an agreement, it was stipulated that the funerals and burials of those who were without a family tomb, or who died without having chosen a tomb, should be held alternately, one month in the church of the Regular Canons, and the next month in the parish church. Such agreements were confirmed by the Holy Congregation of Bishops and Regular Canons on May 21, 1745, and were also expanded with the consent of both parties in the year 1763, and ratified by the same Holy Congregation. Although controversies did not entirely cease, these agreements were nevertheless observed until the year 1861, when, due to the usurping government, the suppression of the Regular Canons, and the establishment of public cemeteries, the Parish Priest considered himself to be released from the aforementioned agreements. With new controversies arising, the Bishop decreed that the rights of the Regular Canons should remain in force, both by virtue of common law and by virtue of the special law established in the agreement. However, while the Parish Priest continued to celebrate funerals in his church, without regard for the months, the Regular Canons presented petitions to the Holy Congregation, explaining that they were suffering damage from this practice.

[*Latin ed. p. 584*]

584 Concerning the matter of funeral rites, the Vicar General explained the situation, dating back to the year 1400; and he considered this matter to be of the utmost importance, because the parishes could not subsist on the meager pensions which, after deducting expenses, the Government provided. Asked about the custom, the Bishop, among other things, stated that the petition presented by the Regular Canons to the Congregation seemed to relate to the damages they had suffered due to neglected agreements; nevertheless, the entire legal question needed to be resolved; and that if the question, violating sacred canons, were brought before civil tribunals, the agreements of the Regular Canons, initiated and confirmed by the Government, might not be admitted due to the law of suppression; and that it was his opinion that, omitting the question of damages, which would be difficult to estimate due to the conflicting accounts of the parties, the ecclesiastical laws, and in particular, the synodal decrees, should be

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observed in the future; especially that which concerned the prohibition against increasing the taxes for funerals celebrated in the churches of the Regular Canons. He also requested that the custom, which had prevailed, of designating the parish church for funerals at the time of Baptism, be abolished, in the event that a child should die. Finally, he concluded that the agreements of the year 1744 should be maintained. The reasons for maintaining the custom were presented before the Most Holy Congregation, with the formulas of doubt which are set forth below. A concise discussion. THE RIGHTS OF THE PARISH. The Parish Priest stated that the witnesses, parents, and heirs of the deceased had the right and the faculty to determine the church for the funeral; and that this same free faculty of the faithful could not be limited by the aforementioned agreements or transactions entered into between the parties, because the transactions had concerned the rights of the churches, but had not been able to bind the will of the parishioners, who had no part in the act that established them. With this established, he stated that he had neither compelled nor coerced the parishioners to choose their own church, rather than another, for the celebration of funerals; indeed, he had reminded them of the agreements entered into between the two churches. Nevertheless, he had desired that funerals be celebrated in the parish church, because, due to the presence of a public cemetery, the deceased could not be buried in the church of the Regular Canons, and the reason for celebrating funerals in this church had ceased. He stated that he acted passively; however, he could not exempt himself from celebrating funerals, lest he fall under the jurisdiction of civil authority.

[*Latin ed. p. 585*]

OF FUNERAL RITES 585 These rights are also confirmed by observations made from official records. It is indeed considered a general principle that the burial of the deceased should be included among the parochial duties; in fact, in ancient times, the right to bury belonged exclusively to the parochial churches (1). Among the rights of the parish priest is also included the right to receive funeral emoluments, which arises both from the right to bury and from the parochial ministry rendered to the parishioners while they were alive, as the authors generally state. Furthermore, it has been observed that the church of the Regulars, of which we are speaking, has never been considered a parochial church, nor have the Regulars themselves ever performed parochial duties; the distance of the church from the town appears to be the sole reason why the townspeople were buried in that church of the Regulars in ancient times; therefore, the right to receive funeral emoluments appears to be derived as an accessory from the right to bury. However, with the establishment of public cemeteries, the right to bury in that church ceased; therefore, both the right to perform funerals and the right to receive funeral emoluments should also cease. But even if

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this hypothesis is accepted, the church of the Regulars would still retain the right to perform funerals, but this right would seem to be limited only to the case in which the testator or his heirs have not designated another church for the funeral. In this matter, a Resolution was presented in the case of Volterra, on March 16, 1726, before the Sacred Congregation, regarding Question II, worded as follows: "Whether the bodies of the deceased should be carried to the parochial church before being buried in the church of the P.P. [Padri Minori] Conventuals, or rather, whether they should be carried directly to the church of the Fathers?" To which the following answer was given: "Negatively, unless the deceased or his heir has ordered otherwise." Also, in the Minutes of the Funeral Council of June 16, 1827, Question IV was proposed, worded as follows: "Whether it is permissible for testators or heirs to designate a church for the funeral to be performed before the bodies are taken to the church where they will be buried or to the cemetery?" The answer was: "Affirmatively, according to the form of the synod." Therefore, in the present matter, if the deceased or his heirs have designated the parochial church for the funeral, it is improper for the Regulars to complain of damage and injury to their rights.

(1) See Appendix V, page 209 and following.

[*Latin ed. p. 586*]

586 CONCERNING THE RITES OF BURIAL. However, if the Parish Priest were judged to have acted wrongly, it would not seem just to compel the same Parish Priest to restore the emoluments received, since he received them not through deceit, but through the firmest opinion of the law, and perhaps consumed them in good faith; and therefore, the sanction of the law does not apply in this case, as stated in chapter 1, section 6, which deals with those who have extorted a promise of burial in churches to which they are not entitled, concerning whom it is decreed: "If these religious or clerics should presume to bury the aforementioned in their churches or cemeteries, we consider them obligated to restore both the bodies buried (if they are requested) and also all that has come to them in any way in connection with those burials... to make full restitution thereof." LAWS OF THE REGULAR CANONS. Conversely, the Regular Canons asserted that the Parish Priest had sought to dissuade the parishioners from entering into an agreement, and to induce them to have burials in the parish church, citing reasons both concerning the public cemetery and the suppression of the Regular Canons; indeed, they claimed that the agreement was violated, because it contradicted the laws of the Regular Canons concerning the funerals of those who possessed a family burial plot in the said Regular Canon church, or who had chosen to have their burial there, whether by acting on behalf of the deceased parents regarding the execution of the funeral in the parish church, or by cleverly persuading them to incur greater expenses that they should bear in the Regular Canon church. Furthermore,

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the Regular Canons denied that parents or heirs had the right to choose the burial place or church for their deceased; because, if the deceased had not chosen a burial place for themselves, it should be presumed that they legitimately wished to be buried in the church that is due to them, either by common or special law. Therefore, if this were not the case, the will of those individuals, presumed by law, would be said to have been violated. Moreover, the parishioners should not have intervened in the agreement, since they had no right to contradict. Nor could they decline the Regular Canon church on the grounds of a higher tax (which the Regular Canons claimed was higher because of the rights of association that the Parish Priest asserted), since it could not be granted to parents or the heirs of the deceased the right to choose the burial church at their discretion. Furthermore, the civil laws should not be feared, in whose sanction the Parish Priest would indeed fall, if he abstained from performing those funerals that belonged to him during the months that were his due.

[*Latin ed. p. 587*]

IURIS FUNERANDI 587. These regulations concerning burial have been confirmed by other observations arising from the office. Therefore, it is to be noted that, in general, the rights of burial and funeral rites belong to the Parishes; however, these rights may also pertain to others, according to various titles; especially, according to custom, a matter widely discussed by authors and courts. In the present matter, the oldest custom prevails for the Regular clergy, which, being of ancient origin, would suggest a preference over any other title; this custom is also confirmed by a long-standing agreement and by Apostolic authority. Furthermore, it has been determined that the establishment of a public cemetery does not invalidate the rights of the churches, as stated in the exposition of the case of Ariminen. Regarding the law of burial, in the Sacred Congregation of the Council, on May 14, 1824, it is stated: "Cemeteries have been established for the sake of public health, in place of the individual burials of particular churches. Therefore, the church which had the right to bury in its own cemetery now exercises that right in the public cemetery; therefore, the right of burial has not been abolished, but rather the place has been changed; which, of course, does not prevent the collection of fees and the performance of funeral rites." Similar statements are found in the case of Berthonen, Spolii, March 24, 1821, and in Ariminen, Funerum, June 16, 1827. And in the aforementioned case of Berthonen, when the question was raised: "Whether to the Chapter of the Collegiate Church of Levi (to which the right belonged to celebrate funerals by virtue of an agreement) should be granted the maintenance of the right to perform funeral rites in its own church and to collect fees as usual, notwithstanding the construction of a public cemetery in that case," the answer was affirmative in all respects. From the law of burial, two consequences seem to favor the Regular clergy in the present matter, the

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first being that the bodies of the deceased who die within the jurisdiction of the Regular clergy should be transferred directly to their church (unless the heirs wish that they be exposed in another church first), and that the funeral rites and funeral services should be celebrated there, as the Sacred Congregation responded in the case of Lucana Funerum, on March 14, 1722, to the questions: "I. Whether the bodies of the deceased should be buried in the church of the Fathers Minor Observance of the Holy Land of Petra, before being transferred to their church, and whether they should first be presented to the parish priest, and whether they should be exposed there."

[*Latin ed. p. 588*]

588 OF FUNERAL RITES: "Regarding the time of burial: and to the extent that it is negative: WHETHER the Parish Priest is obligated to return the wax and other fees received on the occasion of the association and exposition of the bodies of Angela and Anne in his church; the answer given is: to L, Negative; to IL, Affirmative. Furthermore, it follows that all funeral fees, except for one-quarter thereof, which is granted to the Parish Priest, belong to the church where the burial takes place, as the Sacred Congregation of Councils responded in Ascoli, on August 29, 1733, to the question: "Whether the Rector (who has the legal right to bury) is entitled to, or obligated to, any portion, whether of wax or of other fees, received on the occasion of the funeral of those buried in the aforementioned parish (within the limits of which the Oratory is located), whom he may bury in the aforementioned Oratory, regardless of any custom; the answer given is: that only one-quarter of the funeral fees belongs to the Parish Priest; the remaining fees of the funeral pertain to the church of the Most Holy Annunciation, with regard to those deceased who either have chosen burial there, or are to be buried there in the family vault. Also, in Viterbo, on August 26, 1826, and elsewhere. Nor does it seem that the heirs can be granted the power to alter the funeral rites of the church; for by law, only the father is permitted to choose the burial place for his minor son, and thus, the choice of burial is made while the son is living; but not after his death. Sperelli, decision 89, n. 5; Ferraris, Bibliotheca Canonica, verb. Sepultura, n. 104. Nor does the Resolution of the Sacred Congregation of Councils in Arimino, on June 16, 1827, regarding the fourth question, stand in the way; for it appears that in that case, the heirs, with the permission of the Bishop and the Parish Priest, were able to perform the proper funeral rites in another church, before the body was delivered to the church where it was to be buried, without detriment to the church where the burial was to take place. Therefore, if neither the constitution of the public cemetery nor the will of the heirs can harm the rights of the Regular clergy, it follows that the Parish Priest in question has improperly celebrated funerals that belong to the Regular clergy; and has improperly received fees, so that

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he is obligated to make full restitution, according to the text cited above in chapter 1, section 6, on burials. Such a provision has been consistently applied in these circumstances, as evidenced in the funeral of Spoletto, on June 19, 1710, before the Sacred Congregations of His Holinesses, and in the case of Alsina, regarding the right of burial, on December 15, 1703, before the Sacred Congregation of Councils. Nor does it seem that the Parish Priest can claim good faith or the necessity of complying with the wishes and will of the heirs, since fear...

[*Latin ed. p. 589*]

SECTION 589 of the law concerning funerals, having arisen from civil authority, does not possess a valid foundation; nor did the Priest fail to diligently strive to persuade the heirs to choose the parish church rather than a religious house. However, it is noted that the abuse of inducing parents to choose, during the act of Baptism, a church for the burial of the infant should it die, is strictly prohibited by the holy canons, both for Clerics and for Secular and Religious individuals, lest they induce anyone to vow, swear, or promise, under any pretense, to choose burial within their churches; Chapter 1 concerning burials, paragraph 6. And in Clementine, book 3, concerning penalties, excommunication was imposed by this very act; although later authors have disputed whether this sanction also included the Parish Priest, as can be seen in Bonacina, volume 3, concerning excommunications, part 2, dispute 2, question 5, point 4, number 5, and in Monacella, volume 4, supplement to the testimonies, volume, number 60, and others. These and other considerations must be addressed. Doubts. I. "Whether, once a public cemetery has been established, the right to celebrate funerals and to receive the designated fees belongs to the Religious (N.)." II. "Whether it is legally permissible for parents or heirs to freely choose a church for the burial of the deceased in this case." III. "Whether the Parish Priest is obligated to reimburse the Religious (N.) for the fees in this case." RESOLUTION. The Holy Congregation of Bishops and Regular Canons, on May 6, 1870, judged as follows: Regarding I: Affirmative. Regarding II: Negative; and with the understanding that, saving the right of the father to choose the burial place for his minor child before his death, it is not permissible to do so during the act of Baptism or in a similar act. Regarding III: Affirmative, and with the understanding that the Ordinary should proceed with fairness and justice in the settlement, also bearing in mind the conscience of the Parish Priest, with any recourse to lay judges being prohibited; the Ordinary should provide for the moderation of the tax on parochial rights for funerals held in the church of the Religious (N.).

[*Latin ed. p. 590*]

590 CONCERNING THE RITES OF FUNERAL: I. By means of a public cemetery regulation, only the material location of burial may be changed;

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however, the rights of the churches themselves are not thereby altered (1). II. By the illegitimate suppression of religious orders, the ecclesiastical rights pertaining to them cannot be abolished; nor do these rights cease to exist if families of religious orders, in some way, continue to exist and reside there, even though such ecclesiastical institutions are not recognized by civil law (2). III. Therefore, with these things remaining, the rights pertaining to funerals, which legitimately belong to religious orders within their churches, remain in force. IV. It is the right of the faithful to choose the church for their funeral, just as it was formerly their right to choose the church for their burial, as was the custom of a fourth funeral Mass (3). V. However, such freedom must be subject to legitimate local customs or conventions, established by ecclesiastical authority, for the regulation of rights. (1) See the reason which I explained in Volume I, page 81, and what I wrote there on page 124, and in this Volume on page 221. (2) If religious orders, or any other ecclesiastical institutions, lose their ecclesiastical rights through an illegitimate suppression, this does not occur by the force of civil law; but by the dissolution of the entity to which those rights belonged. Therefore, if that entity persists in some way, the rights also persist. See what I wrote in Volume III, page 141 and page 156, as well as in Volume I, page 168. (3) Here, one might ask, how can the churches of funerals proceed, if they are also prevented by civil laws from exposing the bodies of the faithful within them? On this question, there exists a Decree of the Sacred Congregations, which I cited in Volume III, page 658. For it had been asked: "When municipal laws prohibit the bringing of the bodies of the deceased to the church, and therefore funerals cannot be celebrated with the body present, is it permissible to celebrate the Mass for the repose of the soul on the following day, if the Mass for the repose of the soul was not celebrated on the day of death, and is it permissible to celebrate it on the third, seventh, or thirtieth day?" To this, the Sacred Congregation responded: "In such a case, one must follow the Decrees, especially the one in *Florentina* on April 25, 1751, where, even on holy days by order and of the second class, one solemn Mass for the repose of the soul with absolution and the prayers that are usually said and recited on the day of death is permitted, even if the body is not present in the church because of civil regulations, but is still, with due reverence, kept in a suitable place; provided that a sign, such as a black cloth, different from that used on the anniversary, is placed in the church, so that the faithful may understand that the Mass is being offered for the repose of the soul of the deceased, whose body has not yet been given to the earth, and that they may join their own prayers to those of the church."

[*Latin ed. p. 591*]

SECTION 591

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VI. It is forbidden to all ecclesiastical persons to induce the faithful to choose one church rather than another for burial or funeral rites.

VII. Neither can parents or heirs lawfully choose a church for the burial of the deceased.

VIII. However, the custom is permitted whereby a father may choose the burial place for his minor son, provided that this is done before the minor son's death (1).

IX. It is not, however, permissible for a father to exercise such a power in connection with the Sacrament of Regeneration and supernatural life: for this seems to be contrary to the reason of sacred rites, and is easily subject to fraud.

X. Those who have violated the aforementioned laws are to be held liable for the restitution of any benefits they may have received (2).

(1) The extent to which authors have disputed the privilege of a father to choose the burial place for his minor son, if such a custom exists, can be seen in Sperelli, Decisions, cited above. In the present case, the Sacred Congregation does not seem to have resolved whether, in the town in question, a father could, by virtue of custom, choose the burial place or church for his minor son: for the Sacred Congregation responded only to the question of law, and not to the matter of fact (which is not in dispute), with the words "salvo iure etc."; Therefore, if the custom is not legitimately prescribed in that town, neither can the father choose the burial place for his minor son, according to the text in chapter 4, section 6, where it is stated: "It is permitted for fathers to choose the burial place for their minor children who are not able to do so, before they reach the age of puberty, where they may wish to bury them, provided that the custom of the land allows it; but this is not permitted where such a custom does not exist, but they must be buried with their elders or in the parochial church." Compare what I have written in Volume I, page 125.

(2) Compare also the elegant passage on the law of associating a corpse, which I have presented in Volume III, page 41.

[*Latin ed. p. 592*]

FROM THE HOLY CONGREGATION FOR RITES, DIVISION FOR BEATIFICATION AND CANONIZATION, DECREE CONCERNING THE SERVING GOD, BROTHER HONORATUS OF PARIS, A PRIEST OF THE ORDER OF MINOR BROTHERS OF THE HOLY FRANCIS OF ASSISI, CAPUCHINS.

"On the ninth of September of the year 1867, when the Most Holy Lord, Pope Pius IX, benignly decreed that a question regarding the signing of the Commission for the Introduction of the Cause of the Servant of God, Brother Honoratus of Paris, a priest of the Order of Minor Brothers of the Holy Francis of Assisi, Capuchins, be examined in an Ordinary Congrega-

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tion of the Holy Rites, without the intervention or vote of the Consultors, even though less than ten years had elapsed since the presentation of the Ordinary Process in the Acts of the Congregation of the Holy Rites, and the writings of the same Servant of God had not been investigated and examined; the Most Eminent and Reverend Cardinal Charles Sacconi, Promoter of this Cause, at the request of the Reverend Father Brother Amadeus of Orvieto, General Postulator for the Causes of Beatification and Canonization of the Servants of God of the Order of Minor Brothers of the Holy Francis of Assisi, Capuchins, having considered the Postulatory Letters of several men, especially those of illustrious ecclesiastical dignity, and having convened the Ordinary Congregations of the Holy Rites in Vatican, proposed the following question for discussion: Whether the Commission for the Introduction of this Cause should be signed, in this case and for the purpose in question? And the Sacred Congregation itself, having considered all matters with mature deliberation, and having heard the voice and writings of the Reverend Father Peter Minetti..."

[*Latin ed. p. 593*]

593 LINGONEN. OR, THE PARISIEN. He considered it advisable to write to the Promoter of the Faith, either to affirm, or to sign, the aforementioned Commission, should it please the Most Holy. On March 5, 1870. "Subsequently, concerning the aforementioned matters, the undersigned Substitute of the Secretariate of the Congregation of Sacred Rites reported to His Holiness Pope Pius IX. His Holiness approved and confirmed the judgment of the Sacred Congregation; and with his own hand signed the Commission for the Introduction of the Cause of the Venerable Servant of God HONORAT A PARISIIS. On the 10th of the same month and year." CONSTANTINUS, Bishop of Portuense and of St. Rufina, Cardinal PATRIZI, Prefect of the Sacred Congregation. R. P. D. Bartolini, Secretary. Joseph Ciccolini, Substitute. Acts, Volume V, page LIX, 38.

[*Latin ed. p. 594*]

APOSTOLIC LETTERS CONCERNING SEDITION WITHIN THE ARMENIAN PATRIARCHATE OF CILICIA. To the beloved Armenian Catholic sons of the Patriarchate of Cilicia, from the Pope Pius IX. Beloved sons, health and the Apostolic blessing. "The more we strive to restore the afflicted affairs of the Armenian Church, and to bring it to that order, harmony, and strength which it once possessed, the more we are grieved by the malice of some, who not only frustrate all our efforts, but through their machinations, turn them into discord among souls, into scandal for the weak, and into the ruin of their own people. We have enumerated the evils aroused by their wicked arts, and which are constantly increasing, in our Apostolic Letters entitled 'Non sine gravissimo,' which we issued on the twenty-fourth of February of this year, while we sent to you, our

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venerable brother Anthony Joseph, Archbishop of Thyana, our Apostolic Delegate, to restrain and eliminate these things. "But today, we are compelled to grieve even more deeply, because neither his gentleness, nor his prudence, nor his authority, has been able to break the audacity of the perverse, or soften them in any way. He himself, having barely arrived in Constantinople, mindful of ecclesiastical charity, invited the chief instigators of the disturbances to himself, and tried to bring them back to proper obedience through paternal admonitions. Having experienced the futility of this effort, he publicly presented our letters, in which, adding particulars of new events, we commended his zeal, and sought to have our Constitution 'Reversurus,' promulgated on the twelfth of July, 1867, concerning the proper election of Bishops, observed; we urged the secular clergy and monks to return to their proper duties; we warned the laity not to exceed the limits established for them by the Church; and we clearly demonstrated the futility of the demands put forth by the dissenters. On that occasion,..."

[*Latin ed. p. 595*]

APOSTOLIC LETTERS: 595. Likewise, the Venerable Brother Anthony Joseph was warned that ecclesiastical censures would be imposed upon those of the clergy who refused to submit to legitimate authority within a specified time. However, having seen that those days were being unduly prolonged, he still deemed it necessary to extend the established deadline, and he did not impose the suspension until he knew that all patience was now useless, and that this severity would prevent the danger of further deception of the simple. "But those who had been thus penalized not only did not relent in their obstinacy, but they turned the very penalty into a heinous crime, and a greater scandal to others, and, impudently despising the authority and laws of the Church, they proceeded openly, and even with greater solemnity, to perform all the functions of the sacred ministry which had been forbidden to them. We are deeply grieved that several secular priests, from the monks residing in Constantinople, along with all the Mechitarists of the Venetian Congregation, and all the Antonian monks, and those who reside in this city, have not been dissimilar in their behavior. For they not only resisted the Apostolic visitation of their houses, which we requested, as did their brethren in the East, but they repeatedly rejected the former and the second elected Visitor; but all, without any request for permission, submitted to us. Among these is the Venerable Brother Placid Kasangian, who, having been consecrated with the title of the Church of Antioch, had previously been Prefect of the entire Congregation, and who, forgetting his duty and the censures of the Bishops, who, without obtaining Pontifical permission, abandoned the council, departed. "But the perseverance of these rebels, and the arts used to stir up the minds of others, make the firmness of many all the more precious and pleasing

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to us, who, neither by deceptions, nor by flattery, nor by threats, have allowed themselves to be led away from their obedience to our legitimate authority. Among those deserving of special commendation, we consider the Mechitarists of the Viennese Congregation, who, not weakened by the defection of others, remained steadfast in their duty. This constancy of so many in such a crisis gives us hope that you, our beloved sons, will, setting aside all human considerations, diligently follow the noble example of your forefathers, who, preferring their faith to these things, cheerfully endured exile and all hardships, rather than allow the bonds of their union with this center of Catholic unity to be weakened, or anything to be taken away from the veneration with which they hold the documents and rules."

[*Latin ed. p. 596*]

596 APOSTOLIC LETTERS followed those proposed by that teacher of truth. Moreover, we expect this with greater confidence from your faith, so that you may know, through experience, how diligently and with what care this Holy See has striven for the good, the increase, and the honor of your people; whether by warding off the attacks of schismatics, or by securing for you the freedom of worship, or by freeing you from the yoke of schismatic Patriarchs, or by establishing a primary seat in Constantinople; which, after being joined to the Churches that were first subject to it, was finally adorned with the presence of the Patriarch, through its union with the Patriarchate of Cilicia. Thus, whatever you may see with your eyes, you must attribute the strength, the freedom, and the dignity that you enjoy, primarily to the care and affection of this Holy See; and therefore, you must take care not to depart from it in any way. "Nor must you allow yourselves to be deceived by the arts of rebels, who, in order to draw you to themselves more easily, assert everywhere that they do not fail in their manner of acting, nor in the faith and obedience due to Us, nor in the office of Catholics; for they deny with their actions what they confess with their words. And indeed, those who despise and scorn the authority of the Successors of Peter, in whom Peter always lives, and of those who have been appointed by them, corrupt with their actions both the primacy of honor and of jurisdiction over the entire Church, which Christ granted to Peter, while they do not acknowledge, no less than the sheep of the entire flock, the duty of feeding the Church, which He entrusted to him, as is widely evident throughout the world. Truly, those among you who have disrespected the authority of your legitimate Patriarch, and of him who exercises vicarious power for him; who have neglected, or refused to accept, the pronouncements of that authority; who have gone so far as to cast doubt on the legitimacy of his election, or to declare it improperly performed and confirmed by Us; who have resisted Our Delegate; who have forbidden him, in the exercise of his office, the visitation of monasteries that We had ordered; who have openly declared themselves independent; who

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have confirmed this by refusing to receive the confessions that were due to them, at the very time when the jurisdiction assigned to them had already been demanded; and who have dared to do this even after a sentence of suspension had been issued to them, forbidding them entirely from that office; who have not ceased to perform all priestly ministrations publicly, and even with solemn rites, in the churches..."

[*Latin ed. p. 597*]

APOSTOLIC LETTERS 597: Regarding the contempt for censures; those who, in the end, have left nothing for themselves, so that they might most clearly demonstrate that they are insignificant, and that they disregard canonical laws, legitimate authority, and the authority of this Holy See. Whether those who display such audacity against Our authority, and who persist so stubbornly in their own crime, should be trusted, even though they profess to believe in the primacy of this Holy See, as befits Catholics, and to remain united with Us and obedient; you yourselves will easily understand. Therefore, if you fear departing from that Catholic unity, outside of which there is no salvation, and if you desire to promote the true benefit of your people, beware of the arts and snares of these individuals. Above all, take care that you are not subjected to a confusion of rites and discipline, which these individuals cunningly strive to introduce into the minds of the simple, so that they may incite them against this Holy See, which they pretend to respect, so that, little by little, the ancient Eastern rites being forgotten, the Latin rite may suffice for them. For the Roman Pontiffs have always striven, so that the uniformity of discipline might correspond to the unity of the Church, at least in the principal matters; however, all rites were considered to be preserved, which did not deviate from the true faith, nor from honesty. Indeed, the rejection of rites, which We have already reproved, certainly does not pertain to the matter of faith, but to discipline; which, unless the Vicar of Christ can regulate everywhere, the entire governance of the Church will be in vain; and therefore, it is preferable to the character that deviates from that true faith, which Catholics ought to hold fast according to the divine authority of the Supreme Pontiff. "Indeed, We trust that those who have thus far persevered stubbornly in their defection, with the help of God's grace, will finally repent and return to their due obedience. But if they should remain in their obstinacy, We remember that the care of the entire flock of the Lord has been entrusted to Us, and that the Apostle Paul delivered Corinth to Satan, in order to remove the scandal of the faithful, and to preserve the spirit of that very place; We shall be compelled to separate these rotten members, which have already voluntarily seceded from the head, from the rest of the body, lest the remaining body be infected by their contagion, and We shall declare all schismatics to be guilty, and We shall tear them away from the bosom of the Church. May they be so terrified by the horror

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of such punishment that they return to their senses, and, converted to a better path, they avert from Us the most unpleasant necessity of this sad exercise of Our ministry. And the more they have strayed from the path of truth and justice, the more they subject themselves to Our authority, and to that of the legitimate ecclesiastical au-

[*Latin ed. p. 598*]

598 APOSTOLIC LETTERS to authority; and they strive to remove from among the simple that stone of offense, which they have presented through their manner of acting, by the example of their obedience and humility, so that they may render us again that most desired opportunity of receiving them in a paternal embrace. "But you, who, although surrounded by difficulties and dangers, have persevered, unwavering, mindful of the distinction made between them, see how carefully you must walk, be strengthened in your faith, always obeying your superiors, remembering that all power, especially sacred power, is from God; and, stirred by our concern and by our care for your salvation and well-being, diligently cultivate in yourselves that religious observance with which you follow the Holy See, and that filial charity with which you are united to Us, so that you may always be with Us in Christ Jesus, and may merit His blessings. These things we earnestly ask from the Father of mercies, whose grace we desire to be poured out upon each and every one of you. And as a pledge of the favor of the Highest and as a token of our paternal benevolence, we impart to you our Apostolic Blessing. "Given at Rome, at St. Peter's, on the twentieth day of May, in the year 1877, in the twenty-fourth year of Our Pontificate." PIUS IX, POPE.

[*Latin ed. p. 599*]

FROM THE HOLY CONGREGATION CONCERNED WITH THE COUNCIL OF TRENT, REGARDING THE INTERPRETATION AND APPLICATION OF DECREES, AND THE REDUCTION OF ABSOLUTIONARY MASSES. April 9, 1870. Summary of the Case. In the year 1323, in a parish church in Borussia, with the authority of the Ordinary intervening, a simple Benefice was established under the title of Saint John the Baptist, with an endowment and the right of patronage granted to the parish priest of that church and his successors. Among the obligations imposed at the very foundation, it was ordered: "The Rector of this altar shall celebrate Mass each morning with the chalice, books, and ornaments of the church, and, content with the revenues, which are sufficient for the purpose, he shall faithfully present to the parish priest all offerings made at his altar, or delivered to him elsewhere, for Masses celebrated or to be celebrated, publicly or privately." Furthermore, the founder declared that he had contributed to the endowment of the altar of Saint John for the sake of his soul, and that this endowment would

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be sufficient to support one person, or even more. The successors of this Benefice, following a tradition received from their predecessors, were accustomed to offer sacrifice for the benefactors only on Sundays and on holy days of obligation. However, a doubt arose concerning the obligation of offering Mass, and an investigation was conducted; and regarding this matter, the present possessor of the Benefice presented to the Bishop two documents, written in ancient characters, hitherto completely unknown, which appeared to indicate special obligations of this Benefice. From the first document, it is learned that the founder, the priest John de Ham, was the first possessor of this Benefice, who, after a period of ten years, in the year 1333, increased the endowment of the Benefice according to a law imposed and approved by the Ordinary, "so that the Rector of this Benefice may, each day, commemorate him."

[*Latin ed. p. 600*]

600 APPLICATION OF MASSES. "The Mass, in the Canon and other divine offices; and, moreover, for the memory of his parents and grandparents (whom he named), once each week in the Mass, in the Canon and other offices, shall be celebrated perpetually." From another document, it is clear that a certain Matthias Sasse, in the year 1362, added new donations in the name of himself and his relatives, with the intention "that the Rector should commend the souls of the Benefactors to God through his prayers; and that he should also remember him each week in the Vigils, in the Canon, and in the Masses." From the year 1818, this benefice has always been held by the Vicar-Parish Priest, since the parish was very large and there were no others to assist the Parish Priest; this Vicar-Parish Priest is obliged, without any other remuneration, to preach the divine word, to hear the confessions of the parishioners, to visit the sick, and to perform other parochial duties for the Parish Priest of that place. In these matters, the Bishop requested that the Holy See decide whether the holder of the benefice was obliged to celebrate and apply the Mass, and, in order that a positive response might be given, he proposed that, considering the smallness of the revenues, which scarcely amounted to 160 Prussian Thalers, or 115 Roman scudi, a remission for the past and a reduction of Masses for the future be granted. With this petition in hand, the response was written in the usual manner, that the Bishop should hear the Parish Priest and the holder of the benefice, and, after having received a copy of both documents, should express his opinion in writing. The holder of the benefice replied that he had received the same obligations from his predecessor, and that these were nothing more than, perhaps, to celebrate Mass on Sundays and feast days; that he had done so in the first years, but had omitted it in the last two years, which, since the matter was in doubt, should be resolved by the Holy See, since a doubtful law does not obligate. However, it would seem that, according to the documents found, this is the case; nevertheless,

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he had found nothing of this in the tradition. The Bishop, having explained the condition of his parish, in which, on the one hand, the faithful zealously fulfilled their Christian duties, and, on the other hand, there was a lack of priests and a serious shortage of revenues after the suppression of the Regulars, judged that the reduction of Masses, which had been introduced by custom, was equitable and suited to the present circumstances.

[*Latin ed. p. 601*]

Regarding the dispensation and application [of the Mass], a matter that is consonant with [the intention], although perhaps introduced without a legitimate dispensation. A concise discussion.

The following arguments were presented in favor of the application of the Mass:

It was noted that Rule 1, paragraphs 14 and following, of the *Regulae Juris* states: "In obscure cases, one usually considers what is most likely, or what usually happens." Furthermore, Rule 45, paragraph 6, of the *Regulae Juris* states: "In obscure cases, one considers what is most likely, such as what is usually done." It was argued that it is more likely that the founder of the benefice, who ordered the celebration of the Mass, also intended that it be applied [for his benefit].

Several older resolutions of the Sacred Congregation were cited, which affirmed this general rule when the application of Masses was in question.

Furthermore, in the present matter, it cannot be doubted that the daily celebration of the Mass is intended, as the words clearly state: "The rector of the altar shall celebrate the Mass; but the application [for the benefit of the founder] cannot be excluded by these words: 'In the early morning, with the chalice, books, and ornaments of the church, he shall celebrate,' as if the founder had only intended the benefit of the community of the faithful; for these and similar phrases are not sufficient to exclude the presumed obligation of applying the Mass, as happened in a certain case in Alexandrina on March 11, 1719, in which a contract was being considered with the fathers of the congregation of Somase in that city, to whom an alms had been assigned "with the obligation of celebrating or having celebrated one Mass daily, perpetually, at dawn, at the altar of Saint John the Baptist... in order that all travelers, laborers, and pilgrims might conveniently hear it, etc." The question was: "Do the fathers of the congregation of Somase have an obligation to apply the Mass celebrated at dawn in this case?" The Sacred Congregation responded: "Affirmatively."

It is true that in the aforementioned case in Alexandrina, the following additional circumstances were present: that the aforementioned religious had already celebrated and applied that Mass, that the alms was substantial, and that finally, in the preamble of the founder's disposition, he stated that he was establishing the chapel in order to give thanks and to implore

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divine mercy, as was noted in another case of this type, Cornetta, on June 23, 1725. But these same circumstances, if one were to exclude the first, are relevant in the present case.

[*Latin ed. p. 602*]

602 Regarding the subject of the application of Masses; especially since the founder stated that he had contributed to the endowment of the altar of St. John for the good of his soul, and that this would be sufficient to support one person or more. These were confirmed by other indications of his will through the words: that the Rector of the benefice should commemorate him daily in Mass, in the Canon, and in other offices; and furthermore, that he should commemorate his parents and grandparents once a week, etc., which not only did not exclude the application, but seemed to indicate it, as can also be deduced from another document. For, as Benedict XIV stated in his work *De Sacrificio Missae*, chapter 9, "A doubt arose as to whether, if the founder ordered that a Benefice or Chapel be endowed for him to be prayed for in Mass, the word 'pray' implies an obligation to apply the Mass to the founder: the Holy Congregation, while we were still in secret, responded in the case of Ventimilien on April 27, 1700, affirming." Even more so in the present case, in which the founder ordered that other offerings made to the Rector for the Sacrifice, or to be made, should be faithfully delivered to the Pleban, the reason for which obligation would not be apparent if the Rector himself were not obliged to apply the Mass. All of which suggests that some custom at least was in place; since it is said that the Mass was applied on Sundays and feast days, although the origin of this restriction is unknown.

FROM THINGS THAT ARE TO BE NOTICED IN THE CONTRARY DIRECTION. On the contrary, as noted in another legal rule, 45 ff. of the *Regulae iuris*: "Against him who could have said the law more clearly, a more favorable interpretation is to be given," it is doubtful that the founder's disposition was intended to exclude the application, and other indications also concur in this, which the Holy Congregation has not infrequently held to be exclusive indications of the application, such as the words: "that he celebrate Mass early in the morning," and similar obligations that determine the time of celebration for the benefit of the people, as in Collen, regarding the application of the Sacrifice, on December 1769; in Fricaseinen, on July 18 and August 8, 1711; and in Mantua, on November 19, 1718. If the Mass were to be applied for the founder, it could not have been that, after nine and twenty years, Matthias Sasse, with a new donation, prescribed that he should commemorate him once a week in Vigils and Mass. Therefore, the foundation was...

[*Latin ed. p. 603*]

Regarding the understanding of absolution and reduction [of tithes], it

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was noted that the Rector should be held accountable for remembering the Benefactors; however, he should not be required to offer Masses for them. Concerning custom, it was observed that it is obscure and has left no clear trace. Based on both reasons presented and confirmations from the practice of the Holy Congregation, regarding the other question, it was noted that, according to canonical jurisprudence, absolution from unfulfilled obligations can be granted as often as good faith in the omissions appears to be present. Nevertheless, concerning the reduction of Masses, it was deemed objectionable and should only be granted if there is a legitimate reason, as stated in Florentina, Reduction of Obligations, August 2, 1823, §. This is also found in Feretrano, August 14, 1824, and Galaritana, January 23, 1847, and elsewhere. Indeed, the Holy Congregation has sometimes considered it more appropriate to impose other obligations rather than reduce the number of Masses, as stated in Taurinen, Reduction, November 28, 1791, and Thelesina, June 23, 1823, §. It has been observed, and this is done for the reason that the souls of the testators derive greater benefit from the sacrifice of the Mass than from other pious works, as noted by Fagnanus in Chapter "Ex parte," no. 34, and by Benedict XIV in his work "De Synodo Dioecesi," I, 14, chapter end, no. 23. In the present case, a legitimate and urgent reason seems to be present, because it has been established in law that a Parish Priest, who is solely responsible for the care of the entire parish, must have as many assistants assigned to him as seem necessary, according to the Council of Trent, Session 21, chapter 4, "De Refectione," which is consistent with the laws collected by Fagnanus in chapter "Audientiae," no. 24, regarding church buildings, and Pignat, volume 4, "Consultations," no. 230, no. 13. Furthermore, the Bishop teaches that the Parish Priest cannot be present to all the needs of the people entrusted to him, especially since a significant portion of them are sick people who live far from the parish church and are accustomed to frequently attending the sacraments and hearing the divine word. However, it is not possible to provide a suitable salary to a Vicarious Rector from the fabric of the parish church; therefore, provision must be made for such a benefit, which, however, would be rendered useless if the Rector of the Benefice were required to offer Masses daily. Therefore, this reduction of Masses should be more readily granted, especially since the revenues of the same Benefice are currently diminished.

[*Latin ed. p. 604*]

604 APPLICATIONS OF MISSES should be abolished, and this is also another reason why the reduction of Misses is sometimes granted, as in Todi on January 27, 1827, in Rome on June 27, 1829, and elsewhere. Having considered these and other matters, the following questions are to be resolved: I. "Are Misses to be applied in this case?" And, to the extent that the answer is affirmative, II. "How, and in what manner, should absolution and reduction be granted in this case?" ANSWER: The Sacred Congrega-

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tion of the Council decided on April 9, 1870: To I. This will be provided in the second part. To II. Application should be made to the Most Holy [Father] for the grace of absolution and reduction, leaving the matter to the prudent judgment of the Ordinary. FROM WHICH WE GATHER: I. At the beginning of the 14th century, in Prussia, the ancient manner of speaking still prevailed, whereby Benefactors, who wished to receive the perpetual fruit of the Sacrifice, indicated by the words: "that a commemoration be made for them in the Mass, in the Canon and in the divine offices"; and this commemoration was also customarily made by expressly mentioning the names of the Benefactors in the prayers of the church. (1) (1) Compare what I have cited in Volume IV, page 235. It is also appropriate to mention what Benedict XIV left in his famous Constitution, *Cum semper oblatas*, § 14, with these words: "Indeed, not only in former ages of the Church, but also not far from our own time, in each and every church, a series and a careful record was kept of all and each of those whose liberality had increased each [church], and their names were consigned to the sacred *Diptychs*, as they are called, so that their memory would never perish, and that prayers might be offered for them, and also the sacrifice of the Mass might be offered; for which reason, the aforementioned catalog was also accustomed to be kept before the eyes of the celebrating priests in most churches, although the aforementioned pious Benefactors had made no agreement for themselves in their donations, but only offered their goods to God for the remission of their sins. Indeed, the prelates of the churches have judged it right to offer prayers for these; although they, offering their own goods, did not say a word about it."

[*Latin ed. p. 605*]

ABSOLUTIONIS ET REDUCTIONIS 605. Est doctrinae Sanctae Congregationis, in consuetudinibus fundationum capellaniarum, ut Missae applicandae sint pro fundatore, si non habeantur aliqua saltem indicia quibus applicatio censeri possit libertati celebrantis relicta. (1) III. In hoc enim genere rerum locum habet illud dictum iuridicum: inspicimus in obscuris quod est verisimilius, vel quod plerumque fieri consuevit. IV. In praesenti themate, Sancta Congregatio admisisse obligationem applicandi Missam pro capellaniarum fundatoribus: quamquam ex adiunctorum complexu eam reducendam perpetuo esse auctoritate SSm. existimaverit. Usus, paulatim, defecit; "ob idque in oblivione iacent alicubi" complurium Benefactorum nomina; "at non idcirco deserere fas est usum" et disciplinam orandi pro iis et sacrificium Missae pro illis offerendi. "Atque inde praeceptum applicandi" Missam conventualem pro Benefactoribus in genere originem atque "rationem desumi!" Quare mihi non est dubium, Missam de qua in praesenti themate agitur, applicandam fuisse pro illis Benefactoribus qui Beneficium fundaverunt vel eius dotem augerunt, qui enim memoriam in Missa quaerebant, ideo quaerebant ut participes essent fructus Sacrificii,

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quem modo fructum medium dicimus, quem illi percipiunt, pro quibus Missa applicatur iuxta doctrinam theologicam, quam sic breviter exponit Theologus nostra aetate doctissimis Ioannes Bapt. Frantzelin, *Tractatus de ss. Eucharistiae Sacramento et Sacrificio*, pag. 350. "Quod vero spectat ad eos, pro quibus sacrificium intentione Sacerdotis specialiter offertur, efficacia impetrati consequens ex infinita dignitate intrinseca sacrificii potest adimitti secundum eandem infinitatem extensive spectatam. Quoad applicationem vero satisfactionis, videtur ex sensu et praxi Ecclesiae dicendum, eam esse ita determinatam in divina acceptatione, ut hic fructus intentione Sacerdotis applicatus multis, non totus singulis obveniat, atque ac si pro uno solo fuisset applicatus, sed potius in multos secundum partem et aliquem gradum distribuatur. Vide Suarez, *Disputationes*, 79, sect. II, 1, 2; De Lugo, *Disputationes*, 19, sect. 9. Ysambert, *In 3 q. 83, disp. 7, a. 1, 8, 10* (1). Confer quoque quaestiunculam quam exposui in Vol. III, pag. 595.

[*Latin ed. p. 606*]

CONTRACTS AND NOTICES. February 19th and April 9th, 1870. Summary of Facts. The parish church of A was formerly considered one of the wealthiest in the entire diocese of N. In recent years, due to a lack of income, it was deprived of the priest who was to care for it. Investigating the cause of this decline, the new Bishop, during his first pastoral visitation, determined that it stemmed partly from the fact that certain properties belonging to the parish church had been unjustly transferred to others, partly from the fact that tenants, or those who were supposed to pay annual rents or dues, were failing to make their payments; and finally, partly from the fact that tenants, without consulting the priest, had alienated lands, without paying the customary fees and without drawing up the necessary documents to establish ownership. To remedy this evil, the Bishop publicly declared that he had discovered, through old and new documents, that several rural properties clearly belonging to that church were currently in the possession of outsiders without a legitimate title, although the usurpation had been carried out under the guise of devolution or renunciation by those who previously held ownership of the properties. He specifically named three such properties, namely properties A, B, and C. Subsequently, he announced that several tenants, or those who were supposed to pay rents, annual dues, and other obligations to the church, were failing to do so, and were freely alienating properties in various ways. Therefore, he urged the unlawful possessors and debtors to make restitution for the damages, reminding them of the penalties established by ecclesiastical laws against such usurpers, warning all those who, with deceit, possessed or retained properties belonging to that church that they had incurred ecclesiastical penalties; and he also urged those who were debtors and yet had not paid what they owed, and all of them, to consult their consciences and satisfy

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justice as soon as possible. Furthermore, he ordered that the tenants pay the annual dues to the parish church; and he strictly forbade the lessors from doing so, under penalty of double payment.

[*Latin ed. p. 607*]

CONTRACTS AND WARNINGS 607. Finally, it was decreed that all surveyors, leaseholders, and possessors of properties whose direct ownership belonged to the parish church, should within two months prepare documents for the recognition of ownership and the payment of dues; and if this time were to pass without fulfillment, a penalty of nullity would be imposed. In this context of a public edict, although no names of usurpers were made public, Anthony was nonetheless distressed, and he presented a humble petition to the Most Holy Father, stating that he had, in the same year, sold a small property, burdened with a tax for the parish church, to Joseph through a public instrument drawn up in Rome: his interest, he said, was that the public warning of the Bishop should be revoked, so that he would not be forced to bear the burdens of the buyer; and with fervent prayers, he requested that the unjust resolution of the Bishop be declared invalid, not only because it was contrary to the provisions of the law, but also because it exceeded the Bishop's authority. Upon receiving this petition, the Bishop was asked for information and an opinion, and to hear in writing from the Archpriest, and after receiving a copy of the Decree of the Visitation, to report on the original imposition of the tax, on the transfer of ownership to third parties, and especially on the instrument of May 3rd of that same year, and on all other matters relevant to the case. The Bishop, having followed these instructions, and after receiving the documents, stated that he had not explicitly mentioned any possessors of properties in the edict, but had rather called upon all the inhabitants indistinctly, so that, if they had appropriated anything from the rights of the church, they would compensate for the damages caused to the parish and also consider their own consciences. And if mention had been made of certain properties, it was because their recent and widely known appropriation was the case, and because at that time it was rumored in the town that such a form of property ownership could be transferred to third parties through a contract of sale. It was feared that, if the parties were not deterred by religion, they would at least be deterred by the fear of eviction. "For at that time, it was unknown to all the inhabitants that Anthony had already alienated these properties in favor of Joseph on May 3rd, because the instrument of alienation, perhaps in order to keep it secret, had been drawn up in Rome by the notary N."

[*Latin ed. p. 608*]

608 OF CONTRACTS AND WARNINGS. Furthermore, he added that it was not only possible, but entirely necessary, to propose such an Edict,

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so that both the rights of the Church might be protected and each person might be guided by his conscience. Finally, he raised the question concerning the appropriation of funds, which I mentioned. Given the state of affairs, a decree was issued in the customary manner: It should be noted in the record and notified to the Bishop, who should warn the party involved regarding this matter, and, if he wishes, present further evidence; this also should be brought to the attention of the fiscal court. Thus, two questions were brought before the Holy Congregation, the first concerning the appropriation of funds; which we omit, because it was not clearly defined, and because it was entirely contained in the facts and was very complex, involving numerous documents, both presented and refuted; and it required, as in a special ordinary trial, that it be considered according to the proper form of judgment; which Anthony also requested. However, we will not omit those matters that pertain to the second question under consideration, which may be of some use. A synopsis of the discussion. RIGHTS PRESENTED BY ANTHONY AGAINST THE WARNING. Anthony argued that the Bishop could not have issued that warning, as it exceeded the limits of his authority. He sought to demonstrate this by stating that such warnings can only be issued when there is a lack of evidence and when there are no means by which illegitimate possessors of property can be compelled to restore what they have illegitimately possessed. Regarding this matter, he cited chapter 3, session 25 of the Council of Trent, where it is written: "Those excommunications, which, as they say, are imposed after warnings, either for lost or stolen goods, are never imposed by anyone except by the Bishop, and then only for reasons that are not ordinary, and which the Bishop has carefully and prudently examined, which move his heart..." In judicial cases, it is mandated to all ecclesiastical judges... that whenever a real or personal execution in any part of the judgment can be carried out by their own authority, they should abstain from ecclesiastical censures or interdicts, both in proceeding and in making judgments; but it is permitted to them, in civil cases, to bring before the ecclesiastical forum anything that pertains to it, against anyone, even laymen, through fines and money.

[*Latin ed. p. 609*]

609 OF CONTRACTS AND SUMMONS. . . . either through the seizure of pledges. . . . and other legal remedies, to proceed and define the causes. But if the real or personal execution against the accused cannot be carried out in this way, and there is contumacy towards the judge, then he may also, at his discretion, subject them to the censure of anathema, in addition to other penalties, etc. » The Holy Congregation of Bishops declared in Savonen, on January 15, 1619, apud Nicolium in Flosculis verb. Monitorium n. 2: that such summonses should not be issued except as a subsidiary measure, namely, when proofs are lacking and the truth cannot be ascertained otherwise, and this is generally held by the Doctors, as Barbosa alleges, 96 n.

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24. In the present case, however, other means for discovering the truth can be gathered from the very narration of the facts, made by the Bishop. But furthermore, such summonses should not be issued when the persons are certain, because then ordinary legal proceedings should be followed, as taught by many authors cited, Ferraris Biblioth. can. verbo Monitorium n. 21. Although in the present case the persons were not explicitly named in the summons, the lands whose possessors were certain were named: therefore, certain persons were indicated. JURISDICTION OF THE BISHOP. The Bishop has made himself clear in this matter; for he has noted that it is openly lawful for Bishops to issue such summonses, in order to compel those who possess stolen goods to restore them, and to compel those who certainly know that they are being withheld by someone to reveal them, under the penalty of excommunication. It has been ascertained that the goods of the parish church, of which we are speaking, have been stolen, so that that church has been left completely without the proper revenues for the parish priest, and the holders of these goods cannot be discovered: therefore, there was a place for a summons. If three properties were named in the edict, it was done for the particular reasons indicated above: and the edict was a general one, for the purpose of restoring the church to its lost and stolen endowment. With these and other things explained, the doubts are to be resolved. "Whether the contracts of Antonio are valid and effective in this case." Acta, volume V, page LIX, 39.

[*Latin ed. p. 610*]

610. CONCERNING CONTRACTS AND MONITORING II. "Whether an action brought by a Bishop should be upheld."

RESPONSE. On February 19, 1870, the Sacred Congregation of the Council considered the case and issued the following resolution: the matter was deferred to the next meeting. The case was again presented at the subsequent meeting on April 9, 1870, and the following response was issued:

I. The parties should exercise their rights as they are due, both before the ecclesiastical court.

II. The monitoring should be conducted in accordance with the provisions of canon law.

FROM WHICH WE GATHER:

I. In the case of the recovery of goods, which have been surreptitiously taken from a church, the legal remedies must be pursued through the ordinary ecclesiastical court, with the parties being summoned, a defender appointed for the deprived church if one is lacking (1), and the dispute being contested, etc., after an inquiry has been conducted by the Ordinary (2). Especially if one party does not relinquish their right to bring the case before the ordinary judge in the first instance.

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II. If the holders of the goods are unknown, or if documents necessary for the knowledge of the case remain hidden, the Bishop, after giving warnings, can compel the faithful who may know this, under pain of excommunication, to reveal it.

III. This method of proceeding must be distinguished from another, in which usurers of goods are declared excommunicated by a general edict: the former is a legal remedy for recovering the goods; the latter is a pastoral office, so that the faithful may be aware of the penalties already established by the Holy Canons, and may be guided by their conscience and justice.

IV. In the present matter, the pastoral office intervened more prominently, whereby censures imposed by the Holy Canons were generally recalled, except for certain exceptions, such as the designation of certain funds.

(1) Cf. the question concerning parochial goods, which I explained in Volume IV, page 78.

(2) Cf. chapter 23 concerning accusations, which was reported in the case of the deprivation of a parish, in the present volume, page 72, as well as Appendix I there, page 38, §. Ad secundam et seqq. Cf. the case, which is referred to below, concerning the Association and emoluments, etc.

[*Latin ed. p. 611*]

RIGHT OF OPTION. On December 18, 1869, and April 9, 1870. Summary of the matter. A benefice was to be conferred in the cathedral chapter of N, and the Bishop, according to custom, freely offered it. However, certain Apostolic Letters were unexpectedly presented by the chapter, in the form of a Brief from Leo X, by which that chapter had been granted the right of canonically electing benefices; so that, when any benefice became vacant, individuals, having relinquished their own benefices, could obtain a more lucrative one; and that the last one remaining vacant would be considered to be for the one to whom the Bishop would appoint a new canon. The Bishop did not agree with this innovation in rights, but preferred to propose the question to the Holy Congregation of Councils. This was presented, with certain arguments on both sides, on December 18, 1869, and a response was issued: The Brief is to be examined, after hearing the chapter. After considering the rights on both sides, the matter was as follows: the right of electing benefices was contained in the Apostolic Letters of Leo X; however, the canons had never used this right for three hundred and fifty years; although they had used the right of electing certain small holdings, which were vacant and were outside the canonical benefices. Therefore, the entire question was reduced to inquiring whether, through the non-use of this right, the right itself had been lost in the present case. A concise discussion: THE RIGHTS OF CANONS. The canons endeavored to explain, by hypotheses, why the right of option had always been exercised by the chapter with regard to holdings; but not with regard to canonical benefices;

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and they said that this had happened because there were fewer holdings than benefices; hence there was a reason for electing holdings. They argued that, initially, there was no reason for electing benefices, because, at the time when they obtained the right of electing, a fair division of the chapter's table had been made, by which all the benefices were equal; and therefore, there was no reason for preferring one benefice over another.

[*Latin ed. p. 612*]

612 OF THE RIGHT TO CHOOSE. With the passage of time, and the occurrence of various circumstances, the fields and forests in which the benefices were located, whether diminished or increased, induced a difference in the benefices themselves; but why the canons did not make use of the right to choose at that time, He explained through the kinship and relationship by which all the canons were connected in the 17th and 18th centuries: so that no one would seem to do an injustice to his relative, who would possess the canonry. Furthermore, at the beginning of the century, the benefices may have been considered as equal, due to the equal sums of pensions imposed, according to the greater or lesser fruit of the benefices. Finally, it is not unlikely that, having not thoroughly investigated the archives of that time, the right itself may have fallen into oblivion due to its non-use. Moreover, since there was no act of renunciation, nor any contradictory act, prescription could not arise through simple non-use; and if one were to presume an act of renunciation on the part of the canons, since it was not an act of the Chapter but of individuals, their successors could certainly not be bound. OF THE BISHOP'S RIGHTS. On the contrary, the Bishop recalled that the canonical benefices were distinct and divided into three orders, and that they were so connected with the proper title, that the choice of a benefice necessarily entailed a change of title: therefore, the right to choose was a true privilege against common law; but there is no privilege that does not become obsolete after a long period of non-use, especially after a period of nearly four centuries. Nor is it useful for the canons to adduce the reason why they did not make use of this right in ancient times, in the equality of the benefices; for, assuming that equality, the distinct order of the benefices was always maintained, and that order carried with it precedence and superiority, which would have provided a sufficient reason for choosing. But he also showed that the second alleged reason, derived from kinship, was also weaker. With these reasons excluded, the presumption arises that the Chapter sent a messenger with its own privilege: all the more so since, from the time of Leo X, the Chapter has issued two constitutions, and indicated that all the benefices are subject to the immediate right of the Collator, who has not

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uttered a word about the right to choose.

[*Latin ed. p. 613*]

SECTION 613 CONCERNING THE RIGHT TO CHOOSE: It is the case that the free right of the patron is incompatible with the faculty of choosing granted to each Canon, since the free right of the patron over each benefice is incompatible with the faculty of choosing granted to each Canon. Therefore, since the capitular constitutions are the laws of the Canons themselves, it seems to follow that the Chapter has relinquished its right in establishing the law. It cannot be said that the renunciation can be proven by the lack of use, because the actions of individuals cannot affect the rights of the College unless a capitular renunciation is issued. Indeed, Cardinal De Luca, speaking of a similar difficulty in discourse 49, number 15, concerning the Regulations, and in discourse 24, number 14, concerning Parishes, states that it does not occur when there has not been public and open use for a long time, so that it could not be ignored by the College. Therefore, a contrary custom, even if it opposed a previously held Apostolic privilege that was never put into effect, must be considered: the free collation of benefices, exercised for nearly four centuries, is confirmed by the laws of the capitular constitutions; therefore, any abnormalities arising from it must be resisted. The Bishop testified that there were some more lucrative benefices that had an inferior order attached to them: consequently, it would naturally happen that older canons would acquire the more lucrative benefice by choice, and descend from a higher order and grade to a lower one, not without the admiration of the people.

THINGS ADDED BY OFFICE: By office, it is understood that the doctrine transmitted by Ferraris in the Aurelian Library of Canon Law, under the word "Privilege," article 3, number 35 and following, is to be considered: "Affirmative privileges, which are mere graces and do not infringe upon anyone, e.g., celebrating before dawn, absolving, dispensing, and the like, are never lost through non-use, as stated in the Glossa in chapter 24 of Privileges." And "the reason is because non-use is an act of free faculty, which does not induce prescription or renunciation. Prescription is not allowed in faculties." "Similarly, for the same reason, negative privileges, e.g., not fasting, are never lost through contrary use; Suarez." "On the contrary, negative privileges that involve a burden on others, e.g., not paying tithes or taxes, can be lost through contrary use; Suarez."

[*Latin ed. p. 614*]

614 OF THE RIGHT TO CHOOSE: "As those negative privileges, which are established by not doing something and are burdensome to others, such as the privilege of exemption from paying tithes or taxes, or the privilege of exemption from the jurisdiction of the Ordinary, are lost through contrary use, for example, by voluntarily, freely, and spontaneously paying tithes

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or taxes, or by appearing before the tribunal or jurisdiction of the Ordinary without protest; however, this applies only for the time required for prescription." The same doctrine has been sufficiently explained in law by Pitonius in *Disceptationes Ecclesiasticae*, 154, n. 24, where, referring to the claim of the Chapter of the collegiate church of Saints John and Reparata in the city of *Lucae*, which asserted that the right to confer canonries of that church belonged to it, although they had not made use of the privilege granted to them by Innocent IV, among other things, he says: "The Chapter, by not using the privilege for a period of 30 or 40 years, but allowing the free collation by the Bishop, is considered to have renounced that privilege by non-use or contrary use, according to the text in *Si de terra, de Privilegiis*." Also, Scarfa in *Decisiones*, 14, n. 26, and the Sacred Rota in *Giennen. Adiunctorum*, February 13, 1702, §, and March 27, 1705, before Molines, and elsewhere. Indeed, in this matter, it is a question of a positive privilege, the exercise of which would entail a burden on the free power of the Bishop to collate; therefore, the non-use of such a privilege does not generate a prescription in favor of the collator. However, it should be noted that there are authors who, when dealing with the right to choose, seem to hold a slightly different opinion, as is the case with Moneta in *De Optione Canonica*, c. 8, g. 2 and 18, who held that the custom of choosing is not lost through non-use, even if a case for choosing arises, because the act of choosing is purely voluntary, and it is certain that the faculty is not lost through non-use, since the rights of a faculty are imprescriptible; this is confirmed by several arguments and decisions of the Sacred Rota. Also, see Barbosa *De Canonicis*, c. 3, Calderin, *Consilia*, 3, n. 3, and the Sacred Congregation of Councils in the case *Interramnen. Optionis*, June 26, 1824, §. Finally, a DECREE was issued. After the prayers presented in the Sacred Congregation of Councils on March 26, 1870, and after the case was known, a decree was issued: The right to choose is not maintained in this case.

[*Latin ed. p. 615*]

OF THE RIGHT TO PRESENT CANDIDATES 615 From which we gather: I. Those privileges which consist solely in a certain power to act or not to act, the exercise or non-exercise of which does not infringe upon the rights of others nor alter the state of affairs, are not, in general, subject to prescription. II. Likewise, those privileges which are relinquished to the detriment of another and are interrupted, are not subject to prescription, as long as a legal renunciation cannot be presumed. III. This presumption may arise if, over a long period of time (which, according to the law, is considered to be a space of 30 or 40 years), the right to such privileges has been consistently interrupted. IV. This presumption cannot be invalidated by the exception of ignorance, if the ignorance of the privileges is equivalent to negligence. V. And this presumption (which, in

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the end, is based on the principle that rights in society should not remain long-standing and uncertain) gains its greatest force when, through the non-use of the privilege, the privilege itself falls into a situation, due to a change in circumstances, from which it could scarcely have been originally intended. VI. Therefore, the privilege of presenting candidates for more lucrative benefices, even though it consists in a certain power, is subject to prescription. VII. In the present matter, the privilege of presenting candidates has never, over the course of centuries, only affirmed itself against the right of the Patron; but, due to a change in circumstances brought about by the non-use of the privilege, it has fallen into a state from which it could scarcely have begun.

[*Latin ed. p. 616*]

REDUCTION OF BURDENS. April 9, 1870. Summary of the matter. Philip, in his will of the year 1744, designated as his heir the collegiate church of N, which was later converted into a cathedral. He also stipulated that, after fifteen years, as many simple benefices as his estate would allow should be established, with a designated and determined endowment, namely, ten perpetual stipends. He imposed the obligation on each beneficiary to celebrate two Masses each week on the altar in the aforementioned collegiate church, for the benefit of his soul, and to chant the Divine Office in the choir with the canons, with the granting of three months of vacation; and if they were absent for more than three months, they were subject to a penalty of one penny for each canonical hour of absence. He also subjected these benefices to ecclesiastical patronage, and named the patrons. After the prescribed period of fifteen years, three benefices were established. However, at the very beginning of their establishment, some questions arose between the beneficiaries and the canons regarding the service of the choir, which were immediately resolved and settled through an amicable agreement, in which, among other things, the following were established: "The beneficiaries and their successors must celebrate and apply the conventual Mass by turns, with the help of other priests, on each day on which Mass is not solemnly sung with the ministers prepared. Masses for the Dead and funeral services shall be celebrated by the beneficiaries, but by themselves and not by other priests; to whom will pertain the offering for the Mass, whatever its value may be." Furthermore, a law was established regarding compensation for the offering for the conventual Mass, to be received by the canons; namely, the canon to whom the celebration pertains shall receive the offering, or a substituted intention. Such an agreement was proposed to the Sacred Congregation, from which the following Rescript was issued: "The Sacred Congregation, having heard the report of the Bishop, benignly allows him to proceed, if the facts are as stated, and after he has judged it expedient, to approve the aforementioned agreement with the expressed clauses and

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conditions, according to his own judgment and conscience."

[*Latin ed. p. 617*]

617 The reduction of burdens should be approved and confirmed, provided that the application of the conventual Mass for each Beneficiary on the days when it ought to be celebrated is not omitted, and with the declaration that the Canons are not considered absolved from the burden of the same conventual Mass, should it happen that it is not celebrated by the Beneficiary, and provided that the other burdens prescribed by the founder are fulfilled. With these provisions, the Bishop approved the transaction in the year 1763. From that time until the year 1783, it appears that the conventual Masses were celebrated by the Beneficiaries, and that they fulfilled the burdens imposed by the founder. However, due to the diminished revenues derived from the lands of the mountains, the conventual transaction, and other burdens, began to be neglected. In the year 1830, spurred by hope and enticements to obtain a certain privilege, the observance of the transaction was revived until the year 1868. At that time, a certain Beneficiary, who was also the patron of the Benefice, presented a humble petition to the Most Holy Father, recounting the history of events, and exposing the great diminution of revenues, and earnestly requested absolution from the Masses which he himself, through error, had not celebrated according to the will of the testator, and a reduction of burdens in the future, according to what is due, and especially, freedom from the obligation of celebrating and applying the conventual Mass. After observing the customary procedures, the Bishop, confirming what had been presented, and opening his mind, finally concluded: "In order that the will of the founder should not be defrauded, nor the Beneficiaries burdened with excessive obligations that do not correspond to the revenues, I consider it necessary to abolish entirely the obligation of singing the conventual Masses, to reduce the choral service to the principal festivals of the year, and to reduce the Masses prescribed by the founder to forty annual Masses for each Beneficiary." "But if it were deemed more fitting to preserve the prior obligations for the greater glory of the Church, I am of the opinion that the annual revenues for each Beneficiary should be increased by the Chapter House to 30 scudi per year, of which 12 scudi would be spent on as many Masses as could be said according to the manual of alms, in suffrage for the Founder; the remainder would be given in compensation for the choral service and the burden of singing the conventual Masses in turn, always with the Beneficiaries receiving compensation for the alms according to the form of the transaction."

[*Latin ed. p. 618*]

618. DISCUSSION ON THE REDUCTION OF OBLIGATIONS: A SYNOPTIC VIEW. RIGHTS OF THE BENEFICIARIES. Initially, the beneficia-

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ries contested the validity of the agreement, claiming that it should be considered null and void due to fraud and deceit. They attempted to demonstrate this defect in the following ways: 1° that, in the petitions presented to the Holy Congregation at that time, the obligation imposed by the Founder of celebrating Masses had not been explicitly stated; 2° that, even if it had been stated, the agreement had been approved and signed by only two out of five individuals, among whom was a Canon, and therefore it was in his interest for it to be confirmed by the Holy Congregation; 3° that the difficulties and controversies that had led to such an agreement had been presented obscurely. Furthermore, they denied that the agreement had been enforced against all the beneficiaries, except for one, and they asserted this especially because, in the year 1830, a certain agreement had been revived between the Beneficiaries and the Canons. However, if the agreement is to be considered valid, it must be rescinded, since, with the passage of time, it has become harmful and unjust. On this matter, Fierlus wrote in *De Usuris*, page 51: "If we are dealing with a contract that has a continuing effect and considers future times, then it may, from the beginning, contain no injury or injustice, but if, subsequently, due to changes in time and circumstances, it becomes harmful and unjust, it deserves to be rescinded, or at least reduced to equity." Also, Cardinal De Luca wrote in his work *De Feudis*, section 120, number 1: "When any agreement, although sworn and initially lawful, either through the passage of time or through other contingencies, is reduced to great injustice, or produces, or may produce, unforeseen scandals and inconveniences, then it must be rescinded, or reduced to justice and equity." Also, the Sacred Rota has ruled this in its decisions on many occasions. With these considerations in mind, the reduction of obligations naturally follows; indeed, the revenues had been so diminished that it was impossible to fulfill the obligations; and the Bishop also testified to this. RIGHTS OF THE CANONS. On the other hand, on behalf of the Chapter, it was argued that the causes and disputes settled by the agreement could not be revived, as stated in Canon 16 of the Code of Canon Law, which reads: "Causes and disputes settled by legitimate agreements should not be revived by imperial rescripts."

[*Latin ed. p. 619*]

619. It is falsely asserted that a transaction is subject to the vices of deception and fraud: since an exhibit has been presented to the Holy Congregation, including a copy of the initial transaction and a portion of the will; the Bishop has been consulted and heard; and, most importantly, a decree has been sent to the Bishop as a mixed executor, with the clause added: "provided that the facts stated are true, which would warrant some judgment and investigation to be made by the Bishop." Furthermore, if even some defect were admitted in the making of the transaction, the same could no longer be impugned on this ground after such a long interval,

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according to Antonelli on legal matters, chapter 100, paragraph 1; Peace of Jordan, *Elucubrationes Diversae*, Book 1, title 24, paragraph 443. Regarding the reduction [of burdens], the Canons, among other things, stated that if the prayers of the Orator were heard, the service of the choir would be diminished, since the same grace would be granted to other Canons of the same church, for whom the same or even a better reason would seem to apply: and therefore, at the same time, six individuals would be absent from the choir. Considering these and other matters, the question to be resolved is: "Whether and how assent should be given to the prayers of the Orator in this case." Affirmative, according to the manner proposed by the Bishop in the second place, provided that the consent of the Chapter is added; otherwise, according to the manner proposed by the Bishop in the first place, with the words spoken to the Holy See.

FROM WHICH YOU MAY GATHER:

I. That a transaction entered into between the clergy of the same church, intended to extinguish controversies, and confirmed by the authority of the Holy See, is a perpetual law for the clergy of that church.

II. That the same transaction cannot be dissolved without the authority of the Apostolic See, solely on the ground that a case has subsequently arisen which was not contemplated at the time the transaction was initiated.

III. That it is nevertheless fitting that the transaction be rescinded or reduced to equity by the authority of the Apostolic See, if, with the passage of time and changes in circumstances, it has become excessively burdensome to someone.

IV. That in the present matter, circumstances have changed so much that equity demands a moderation of the burdens of the beneficiaries, or an increase in the revenues, if the dignity of the church is to be preserved.

[*Latin ed. p. 620*]

FROM THE HOLY CONGREGATION OF BISHOPS AND THE REGULAR CANONS CONCERNING ASSOCIATIONS AND THE BENEFITS OF FUNERALS, on May 15th, August 21st, 1868, and May 6th, 1870. Summary of the case. Joseph is said to have had two residences, one in Rome, and the other in the city of N, which is not far from Rome: he resided in Rome in the parish of St. Celsus, in a house located there; and in the city of N, he owned a house within the boundaries of two parishes, so that his family in the city of N belonged to two parishes, and had two parish priests. In the city of N, Joseph and his family had a family tomb in the church of the Regular Canons of the B. On January 19th, 1867, Joseph died in Rome, in his parish of St. Celsus, and in his will, he had stipulated that his body should be taken to the city of N, and after the funeral, be buried in the family tomb.

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In Rome, in the church of St. Celsus, the funeral did not take place according to the will of the deceased, but the parish priest received the benefits of the funeral according to the old custom, of which I have spoken in the case presented in Appendix V, pages 209 and following, and the parish priest took the body as far as the gates of the city of N, where he, along with both parish priests to whom the family of Joseph is said to belong, and the Regular Canons of the B, accompanied the body in a funeral procession to the family tomb, where the funeral was celebrated the following day. All of this occurred not without some contention between the Regular Canons and the two parish priests of the city of N: these contending that the right to accompany the body and the benefits of the association, and a quarter of the funeral expenses, belonged to them; but in order to avoid scandal, an agreement was reached between them.

[*Latin ed. p. 621*]

ASSOCIATIONS AND FUNERAL BENEFITS 621: In order that both aforementioned Parish Priests and the Regular clergy might join the association, with the rights of each to be determined later. After the funeral was celebrated, the aforementioned Parish Priests requested the association fees and the fourth of the funeral expenses, but the Regular clergy denied these requests, simultaneously submitting supplications to the Holy Congregation, "for the resolution of the dispute." In like manner, the Parish Priests summoned the Regular clergy to judgment before their diocesan judge. Consequently, at approximately the same time, an appeal was made by the Regular clergy to the Holy Congregation, and they were summoned to appear before the episcopal court. The Holy Congregation, having received the documents, wrote to the Ordinary, for information and a decision, after hearing those with an interest in the matter, and inquired whether the deceased had a true and fixed domicile in the city of N rather than in Rome; what the local statutes of the clergy prescribe; and what custom dictates. The Ordinary, in his reply, transmitted a portion of the diocesan synodal acts, which read as follows: "We have also provided that no question whatsoever should arise among the Parish Priests; since the body is to be buried in the parish church according to the will of the deceased or those to whom it pertains. In these cases, which are not infrequently encountered, especially in the City, in addition to those things which must be observed according to the common custom of all places, we decree that all those who are present at the burial of the body, after the prayers have been completed in the church in which the body is to be buried, should all attend to the Parish Priest of the deceased, except for that portion of those who are present around the bier, which portion is due to the same Parish Priest of the deceased by the same right. Furthermore, we absolutely decree that the custom be abolished, by virtue of which the Parish Priest within whose parish the body was being transported

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had the right to accompany it and to receive a portion of the funeral expenses." Furthermore, although the Ordinary refrained from expressing his opinion, he indicated that Joseph had a double domicile, one in Rome and another in the city of N; and this was because Joseph was accustomed to living in Rome with his family for the greater part of the year; but he also had a house in the city of N, to which he went at his own will to attend to various business matters. The Regular clergy, acknowledging Joseph's prior domicile both in Rome and in the city of N, insisted that, since he died in Rome, only the Roman Parish Priest had the right to the funeral benefits, whether of the association or of the funeral itself; however, through compensation...

[*Latin ed. p. 622*]

622 The funeral association of Rome had not been established; and no other parish priests had the right, either to the funeral benefits of the association or to the fourth part of the funeral expenses in the aforementioned church; for if it were otherwise, it would indicate absurdities that seemed to arise from their own actions. The parish priests of the city of N, initially stated that they would respectfully comply with the inquiry made by the Ordinary in the name of the Holy Congregation; however, they were unwilling to relinquish their right to pursue a legal case in the episcopal court, to which the religious orders had been summoned to examine the matter. With these premises, they maintained that the right to associate the deceased, brought to the gates of the city of N by the Roman parish priest, belonged to them, which they demonstrated both by a certain decree of the diocesan synod, and especially by custom: they affirmed that Joseph and his family had always had their true and real domicile in the city of N, citing various funeral arrangements, and also citing civil laws and judicial records, by which the citizens of that same city, Joseph and his family, were considered to be residents; they also stated that the same parish priests had always received the benefits of the association and the fourth part of the funeral expenses in the case of the death of Joseph's parents. After these statements, and after observing the customary procedures, the case was presented before the Holy Congregation on May 15, 1868, and a decision was postponed to the next session. In the meantime, the Roman parish priest was questioned, who recounted the entire history of the matter: that is, that he had not celebrated the funeral in Rome at the request of the heirs, having received adequate compensation; and that, at the request of the same heirs, he had accompanied the body, with a hearse, a stole, and a small cross, with a clergyman, up to the religious house in the city of N; but that upon arriving at the gates of the city of N, he was met by the religious orders, who, with a prepared funeral procession, indicated that the procession should proceed with the body to the church. Then, two vice-parish priests, wearing a stole and a cope, arrived, who, after arranging

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the procession in some way (for it was raining from the sky), followed the religious orders; and that the vice-parish priest followed them (who were seen to be singing without tranquility) up to the door of the church; there, one of them sprinkled the body as if secretly, lest he himself should sprinkle it (such childish things happen frequently among clergy!); and in that church, the solemn funeral was celebrated the following day by the religious orders.

[*Latin ed. p. 623*]

AND CONCERNING FUNERAL EXPENSES 623. Furthermore, the aforementioned Parish Priest relinquished his rights, as will be explained below. It is to be noted, among other things, that according to the law, such matters cannot be brought before the highest tribunals in the first instance unless with the mutual consent of the parties involved: concerning which, Cardinal De Luca wrote in the *Relationes Romanae Curiae*, discourse 16, § 7: "Therefore, distinguishing the affairs of Bishops from those of Religious, insofar as they pertain to the primary purpose of this Congregation, it is the intention of the Founder (Xystus V) that the appeals or complaints of subordinates against oppression be heard summarily and in an extrajudicial manner... but not that private, contentious cases be conducted which require a judicial process and a trial between the parties; for, if the parties do not agree, but one of them objects, they must be referred to their competent ordinary judges, as frequent practice teaches, although sometimes this is not observed." Indeed, the introduction of a case before the ecclesiastical tribunal of the city of N, seemed to present an obstacle to the parties themselves, preventing them from withdrawing from the same tribunal even with mutual consent, I. 19 ff. on jurisdiction, I. 7 ff. on judgment, I. ult. C. on summoning. Therefore, the case was reopened on August 21, 1868, and a decree was issued: "It was postponed, and in accordance with the opinion of the Most Holy Congregation, a report of the facts was to be made to the Most Holy Father, so that he might hear whether the Most Holy Father wished to summon the case, which had been introduced before the episcopal court, to the Most Holy Congregation of Bishops and Regulars." After the matter was reported to the Most Holy Father, a decree was issued: "His Holiness, having considered all the circumstances, ordered that the case in question be summoned from the ecclesiastical tribunal of N to this Most Holy Congregation, notwithstanding any objections whatsoever, even those of a special and individually noteworthy nature. Therefore, the records of the tribunal of N were transmitted to the Most Holy Congregation, which consisted only of a summons and two notifications for the Religious to appear before the court; and, given a new deadline for the parties to present their further rights, the case was again presented before the Most Holy Congregation. A concise discussion. THE RIGHTS OF THE ROMAN

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PARISH PRIEST. This Parish Priest (or the Chapter of St. Gelasius, to whom the habitual care of souls pertains, and therefore the right and duty..."

[*Latin ed. p. 624*]

624 (Regarding the defense of parochial rights of association), it is asserted that Joseph had his domicile solely in Rome, and from the year 1864 he resided permanently in the parish of St. Celsus, where he lived with his entire family and conducted his business; and that, as a parishioner, he was registered and considered to be such, and received the sacraments; but that in the city of N, he indeed had a house and possessions, but that he went there repeatedly with his family only for recreation or to conduct some business, always intending to return to Rome to his family as soon as possible. To demonstrate that he had only one domicile, his heirs, who acted according to his wishes after his death, also showed that they had not ordered anything other than that Joseph's body be taken to the Regular Canon's church in the city of N, for the purpose of burial in a family tomb. It is, in fact, established that a domicile is defined as "a habitation" in a place with the intention of residing there permanently, so that, in order to establish a domicile, these two elements must be joined together: namely, the actual habitation and, at the same time, the intention of remaining there, so that, even if this intention is lacking, someone may be considered to have a habitation, but not a domicile," as stated by Laurentius, *Formularium Romanum*, I, 2, title 2, chapter 3, Decretum, question 72. Although it is often said that ten years are required to establish a domicile, this should be understood as meaning that such a period is considered an indication and argument of the intention to remain permanently; the necessity of this period ceases if the intention is clearly demonstrated, as taught by Sánchez, *Tractatus de Matrimonio*, I, 3, dispute 23, paragraphs 1 and 2. "It is not necessary for someone to have lived there for ten years to acquire a domicile, but rather, as soon as someone begins to live there with the intention of remaining there permanently, he acquires a domicile." These principles also apply to parochial rights, according to the Statute of the Roman Clergy regarding the right to administer funerals, § 2, 1: "Whoever, whether healthy or infirm, transfers himself, with the intention of changing his domicile, and abandoning his former residence, along with his movable possessions and family, is considered, by that very act, to have changed his domicile with regard to parochial rights." Therefore, since Joseph, having left his native land, resided permanently in Rome, and from the year 1864 in the parish of St. Celsus with his entire family, he thereby had a true and real domicile there; "the parish is said to be the proper one, in which one has a domicile and is obliged to receive the sacraments," according to the Statute of the Roman Clergy, chapter 4, § 2. It cannot be argued that Joseph acquired a double domicile, one in Rome and one in the city of N. For a

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double do-

[*Latin ed. p. 625*]

625 And it is necessarily required to consider the funeral expenses, so that someone may reside for nearly the same length of time in both places, as Sánchez states in the cited passage, disp. 24, n. 2: "Someone is said to have a double parish residence when he resides equally in both, as in one during the winter, and in the other during the summer... But what I said is required, that he reside equally in both, is not to be understood mathematically, but morally, so that his residence is entirely, or nearly, equal." On this matter, the Statute of the Clergy of *romani* also declares in a similar way, § 28: "Someone is said to have a double domicile if he appears to have placed himself with equal moral standing in both." Furthermore, the facts clearly show that Joseph did not place himself with moral equality in *romani* and in the city N; therefore, he had a single, true, and real domicile in *romani*; whatever may be said about a legal domicile in the city N, due to contracts, acts, and judicial proceedings, which is irrelevant in this matter of ecclesiastical law. With these things established, it follows that the *romani* parish priest has full parochial jurisdiction over Joseph, from which arises the right to the canonical portion, or fourth, of the funeral expenses, according to the text in ch. 1 on Burial, and Clement. Indeed, there is no reason to doubt this implication; but the question may arise regarding the extension of this right to the fourth of the funeral expenses: namely, whether, in addition to the funeral expenses already received by the *romani* parish priest for the funeral celebrated in his church, according to the Statute of the Clergy of *romani*, he also has the right to receive the fourth of the funeral expenses for those celebrated in the city N.

However, it was argued that this fourth was also due to him, according to canonical jurisprudence, as Barbosa wrote in *De Parocho*, p. 3, ch. 35, n. 36, among other things: "The funeral fourth, or canonical portion, is due from all that is received by reason of the funeral." And the Council of Trent, session 25, ch. 13, on Reforms, states: "The fourth, which is called the funeral fourth, should be paid to the cathedral or parochial church..." But what comes under the name of funeral expenses, Barbosa states in the cited passage, n. 37: "Funeral expenses are said to be those that are received by reason of the burial, as in the book *Liberium*, ch. Nostra, § on Burial... and whatever comes to the church on the occasion of a funeral... even without the will of the deceased; also, those that are carried with the funeral." The records, volume V, page LIX, 40.

[*Latin ed. p. 626*]

626. Regarding this matter, the Parish Priest was strongly urged to comply with the Resolution of the Sacred Congregation for Bishops and Regular Canons, which, besides Julius Lavorius, Varinius also discusses in title

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2, chapter 3, paragraph 179, stating these words, as Barbosa mentions in the cited passage, number 38: "Whether, if to the Parish Priest on the day of the funeral is given only a quarter of the cost of candles and tapers; and then on the following day, with a more solemn ceremony, namely with a large number of Religious, Confraternities, and Priests in another church, where the deceased had been ordered for burial, a solemn Mass is sung for his soul with the distribution of candles and incense in a greater quantity than on the preceding day, must the Parish Priest also receive a quarter from these expenses? In this controversy, the Sacred Congregation, having heard arguments from both sides regarding the matter of Bishops and Regular Canons, on August 3, 1681, with no dissenting opinions, decided: that the Parish Priest is due a quarter from funerals held on the second day." Furthermore, the Sacred Congregation in Fermo, on the day of the funeral, July 18, 1744, had a similar case. The custom in Fermo was that not only on the very day the deceased was buried, but also on the two following days, proper funeral rites were performed with the same arrangements and the same funeral expenses; the same was done on the anniversary of the death. When Benedict XIII, as Roman Pontiff, issued a decree for Italy and the adjacent islands, abolishing the exemption of Regular Canons from paying the quarter of funeral expenses, the Minor Fathers of the Observance argued that they were not obligated to pay the quarter of funeral expenses (which consisted of a larger candle) on those two days, even though the funeral was repeated, but the body of the deceased had already been given for burial; and they argued this both on the basis of custom and of law, since whatever is paid in the name of the funeral is for the sake of the body before it is buried, as is stated in I. Funeris sumptus, in the sections on Religious and Funeral Expenses, and in Extr. de Primi, Clement. Dudum de Sepult. Conversely, the Parish Priests argued in this case that Benedict XIII had restored the privilege of the Regular Canons to common law; and that, by law, a quarter of all revenues that come to the church in which the body is buried must be given to the Parish Priest, whether before or after it is placed in the tomb, and up to the thirtieth day; and they further argued that such a right was confirmed by a centenarian custom. The question then posed was: "Whether it is permissible for Parish Priests of the city of Fermo, on the occasion of the burial of bodies in the church of the Fathers of the Observance, to demand a candle or incense..."

[*Latin ed. p. 627*]

AND CONCERNING FUNERAL EXPENSES 627: "Whether the 'quarta' [a customary fee paid to the parish church] is due on the day of the funeral, on the following days, and on the anniversary, 'in this case'." The Holy Congregation responded: "Affirmatively, regarding the day of the funeral and the two following days. However, concerning the anniversary, proofs are required." Also, in the case of Mediolanen, on the fourth day of July,

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1731. Therefore, in the present matter, the parish priest maintained that he was owed the 'quarta' for a funeral celebrated in the city N, excluding other parishes, although he had received compensation for a funeral not performed in Rome. When asked in what this 'quarta' consisted, he replied that it consisted of the amount established according to the custom of the Roman Church, as recognized by the Statutes, in which chapter 3, section 10, the following is stated: "By the name of 'quarta' for funerals, according to the accepted custom of the city, is understood half of the candles, or tapers, which are either placed around the coffin, either during the procession along the way, or during the exposition in the church for the funeral to be performed, or placed on the altars."

THE RIGHTS OF PARISH PRIESTS IN THE CITY N. Two parish priests of the city N, within whose parish boundaries the house of Joseph was located, contended that Joseph had his true and proper domicile in the city N, within their parishes; although they did not deny that he also had a domicile in Rome. They demonstrated this by showing that the entire family to which Joseph belonged was native to the same city in which Joseph himself was born, and in which he held property; that, according to the norms of civil law, Joseph had always been considered a citizen of that same city, as evidenced by all judicial acts; that, in the case of the death of any member of that family, he would be considered a true parishioner of those parishes; and that in his own will, he had ordered that his remains be brought to the regular church in that city, and that the funeral be performed there. They stated that, although Joseph had lived in a house in Rome for many years, it had happened that he had moved his livestock to the Roman countryside, but that he had never abandoned his domicile in the city N, to which he repeatedly returned, where he had property and his own home. With these facts established, it follows, both from well-known law and from diocesan law, that when Joseph's body was buried in a church outside of his parish in the same city, and the funeral was celebrated there, the 'quarta' was due to the parish priest.

[*Latin ed. p. 628*]

628. ASSOCIATION. Indeed, the association contended that the Roman parish priest, who, according to the statutes of the Roman clergy, had already received compensation for a funeral not performed in Rome, did not have the right to transport the body beyond the gates of the city N, nor did his jurisdiction extend to the deceased to those very gates of the same city; and that the right to proceed belonged to the two parish priests; therefore, the compensation due to the association, from the gates of the city N to the Regular's church, belonged to them, even excluding the Regulars. They demonstrated this, first, from a certain article of diocesan law, in which it is stated: "Only the parish priest is the necessary person, according to the Roman Ritual, for the sacred ceremonies in the transportation of bodies

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to the church"; and second, from the fact that this had always been the practice in similar cases, citing three or four examples of deceased members of the same family, in which matters had proceeded in this way: especially, the recent example of a certain John, who had died in Rome and resided in the same city N, where he spent the greater part of the year; when he chose burial in a certain church of the same city N, the Roman parish priest transported the deceased John to the gates of the aforementioned city, where his own parish priest took over; after a question was raised in the episcopal court regarding the fourth part of the funeral expenses, the parish priest of the deceased John was victorious on May 28, 1859, against the church in which the same John had been buried.

RIGHTS OF THE REGULARS. The Regulars, through their lawyer, initially contended that the Roman parish priests, according to the statutes of the Roman clergy, could demand only the fourth part of the funeral expenses for their own parishioners who had died elsewhere and were buried in another church, according to chapter 7, section 8: "This [applies] for the funeral of one who, having left the city, lost his home and died elsewhere. However, in this case, if the funeral has been completed, the parish priest of the city, to whom the deceased belonged, shall collect the fourth part of the funeral expenses from the parish priest of the place where he died." But if the funeral was not performed in the church where the burial took place, or if it was not performed according to the wishes of the deceased, then he has the right to compensation for the funeral not performed; according to chapter 3, sections 15 and 16: "The funeral must be celebrated in the parish church, even if the deceased is buried elsewhere, or if he died in another parish, or in a hospital. If the heir requests otherwise, no prejudice is considered to be caused to the rights of the parish church. Therefore, all those who..."

[*Latin ed. p. 629*]

AND OF FUNERAL EXPENSES 629 "Those who have been responsible for the funeral of a parishioner are indebted to the parish. If the funeral is not held, or if it is not carried out according to the deceased's wishes, those who are obligated, according to § 3, have the right to claim and receive what is due to the parish alone." Therefore, since the parish priest of Saint Celso had already received compensation from the heir for a funeral not held in Rome, he could demand nothing further, according to the Roman statutes. However, the alleged resolution of the Sacred Congregation in Fermo, dated July 18, 1744, was invoked in vain, because the case concerned a church in which a special custom prevailed; moreover, in the present case, since the heir had already satisfied the funeral expenses for a funeral not held in Rome, he had thereby already satisfied the rights of the parish of Saint Celso. Having made these observations against the rights of the Roman parish priest, the Defender turned to challenging the rights of other

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parish priests, noting that domicile is established by the fact of habitation and the intention of permanently residing there, and that such an intention must be presumed after residing in a place for a period of ten years: but Joseph had moved his residence to Rome forty years ago, not only for the purpose of conducting business, which he could have done even in the city of N; but in order to reside there permanently. It is irrelevant whether he repeatedly returned to the city of N, since the established domicile is not lost by one who leaves his residence for business reasons, with the intention of returning as soon as possible, Schmalzgr. L 2 Ut 2 § 2 n. 9, and others. However, he insisted on arguing that Joseph had a domicile only in Rome, and not in the city of N; for the reasons already indicated: and he added that it could not be objected that, for the purposes of the forum, Joseph remained in the same city. To this objection, he replied that domicile for the purposes of the forum is a right, which even he can enjoy who does not reside in the place where such a domicile is said to be: on the contrary, domicile for the purposes of the parish depends on residence, and no one can be considered a member of another parish unless he transfers his permanent residence. If, hypothetically, it were to be said that Joseph had some domicile also in the city of N, he added, the domicile for the purposes of the fourth funeral would not be lost merely by reason of residence; but also by reason of the reception of the sacraments, concerning which he wrote as follows: Be-

[*Latin ed. p. 630*]

630 ASSOCIATIONIS Tardi Ius can. un. t. 1 diss. 6 de Parochis c. 3: "And in order to expound the general discipline, according to which, after the election, 'who is to be buried in the parochial church,' chapter 3, concerning burials; 'Clement. 2 in the same title, I say that by the name of parochial church, that church is understood in which one received the sacraments while living; that is, the sacraments in which the parochial right is exercised; hence it follows that the domicile, rather than the origin, is to be considered, so that he who has had a double domicile at different times shall be buried in that church within whose boundaries he died; indeed, even if someone dies outside the boundaries of the parish, if he cannot be conveniently transferred to the parochial church, he shall be buried in that church within whose boundaries he died, as stated in chapter 3 concerning burials, in 6." Also, Pirhing, book 3, title 28, numbers 47 and 61, and others. Furthermore, it is a fact that Joseph and his family have had a Roman parish priest for forty years, who has been their proper and sole priest, from whom they have received the sacraments and have fulfilled the Paschal precept; therefore, the parish priests of the city of N, who have no parochial jurisdiction over Joseph, cannot demand funeral expenses, let alone the rights of association of the corpse; and this is because the association of the corpse is a part of the funeral, which is also established in the statutes

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of the Roman clergy, chapter 6, § 32. 'If, however, it is carried from the city to another region, the parish priest of the city will accompany the corpse until a suitable place for burial.' Nor will contrary examples that occurred in the city of N be helpful; for the defender was careful to weaken their value, both because the deceased, about whom we are speaking, did not have a domicile in Rome; and also because of other circumstances.

FROM MATTERS CONSIDERED EX OFFICIO. Many things were considered ex officio in various propositions of the case, of which we select and arrange the following. After stating the text in chapter 2 concerning burials, in 6, where it is read: "Of him who has two domiciles, if he dwells equally in both, a burial place is chosen, and the churches of the domiciles will divide among themselves the canonical portion," it was noted that the adverb "equally" is usually understood in a moral sense, so that it is not to be considered arithmetically in terms of the length of time of residence. In this sense, a resolution was given in a certain case in Ariminen, Fourth..."

[*Latin ed. p. 631*]

AND CONCERNING THE EXPENSES OF FUNERALS 631. Concerning funerals, on November 29, 1851. In this matter, a certain woman named Anne possessed a customary burial place in the church of certain Religious. She had resided for twelve years in a country house within the limits of the parish of St. Lawrence, but at the same time, she maintained a city residence within the parish of St. John, to which she went during the day, and frequently spent the night there as well. Although, while she was alive, she repeatedly declared that she did not consider the parish of St. Lawrence to be her own; and therefore, she never wished to receive the sacraments from that parish priest, nevertheless, since it was sufficiently established that she resided in a country house, after her death, a question arose concerning the fourth part [of the funeral expenses], and the Sacred Congregation of the Council decreed that the fourth part should be given by the Religious, and should be divided equally between both parish priests. Therefore, if the hypothesis is made that Joseph had two residences, the fourth part of the funeral expenses should be divided between the Roman parish priest and the parish priests of the city of N. But the first difficulty that presented itself in this general question was that the funeral had already been performed in Rome, and although it had not actually been done, the compensation for it had been given to the parish priest; therefore, another solemn celebration in the city of N might be considered an extraordinary funeral to which the Roman parish priest would have no right; and therefore, the entire canonical portion would belong to the two parish priests of the city of N. However, this difficulty is resolved as follows: In the Clementine decrees, concerning burials, it is prescribed that the fourth part should be given by the church of the Religious for all funeral expenses; and this term, being universal, does not seem to admit of a distinction between an ordinary

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and an extraordinary funeral, nor does it exclude the case in which some funeral rite has already been celebrated in the person's own parish before the funeral is celebrated in a third place; especially since the fourth part of the funeral expenses is due to the parish priest as a recognition of the right to bury. Therefore, as Berardi states in the aforementioned passage, "Therefore, the parochial fourth part is deduced from 'those offerings which are made on the occasion of the funeral, either by the will of the deceased or by the will of the heir; I say, on the occasion of the funeral, by which name is understood either the solemnity of carrying the body or the solemnity of the funeral rites, while the body is being carried, to be performed.'" And neither of this canonical portion is the heir the debtor, but the church itself, as Barbosa states in *De Officio et Potestate Parochorum*, page 325, number 18.

[*Latin ed. p. 632*]

632. Therefore, since the hypothesis had been established that Joseph had two residences, it could not be excluded that the parish priest of the Roman residence should participate in the fourth part of the funeral expenses which were to be celebrated in the city of N. However, even though all the funeral expenses which were incurred in the city of N were considered as pertaining to a single funeral, it was nevertheless necessary to distinguish between the funeral celebrated in the church of the Regulars, and the association of the body with the funeral procession up to the church of N. Therefore, another question arose: to whom did the benefits of this association belong? To resolve this question, the Constitution of Benedict XIII, Pope, promulgated in the year 1725 for Italy and the adjacent islands, was recalled, in which the following was established, among other things: "We decree... that... to the parish priests of the deceased, who are buried in the churches of any Regular order, the fourth part of all the offerings and candles which are given for the deceased's body during its transport to the church for burial shall be paid and delivered with effect. However, the following are excepted from this fourth part: the candles which are carried by hand by the priests, even Regulars or members of pious confraternities who are associated with the funeral... Where, however, legitimate customs, conventions, agreements, or statutes exist, which favor the aforementioned parish priests more, we order that all should observe them." However, this Constitution could not be applied to the present case: it does not speak of a deceased person who has two residences and dies in a different diocese; but of a deceased person who is associated by the Regulars from his own parish, and the purpose of the Constitution is to reduce the rights of the Regulars regarding the fourth part of the funeral expenses to the standard of common law. Therefore, the same question remained to be resolved according to the procedures of common law. According to the procedures of common law, if the deceased does not have a burial place of his own, or

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does not choose an alien one, he must be buried in his own parish where he dies; and all the funeral expenses belong to the parish in which he is to be buried, so that the parish priest of another residence cannot claim any right. The deceased remains under the jurisdiction of his own parish priest in whose parish he dies. However, this right of the parish priest over the deceased does not cease when he is to be transferred to another burial place, as long as the body has not been delivered to the church of the burial place; therefore, the right to associate the body up to the church of the burial place remains with the parish priest.

[*Latin ed. p. 633*]

AND CONCERNING THE EXPENSES OF FUNERALS 633, if the deceased is a stranger, the matter pertains to the Parish Priest of the parish in which the death occurred. Therefore, the right of association in this matter solely belonged to the Roman Parish Priest: consequently, whatever expenses were incurred by the two Parish Priests of the city N in the association concerning the body, from the gates of that city to the church, could not, by law, pertain to them. Nor could any mention be made of local custom and statute, since the matter concerned not the regulation of rights between Parish Priests of the same diocese, but a common right between Parish Priests of two dioceses, among whom a custom or prescription would have to be demonstrated. Just as the laws or statutes of the Roman clergy could not be usefully invoked in this matter against the Parish Priests of the city N, so conversely, the diocesan laws of the city N could not be usefully invoked in this matter against the Roman Parish Priest. These things, indeed, are said in the hypothesis of a double domicile. If, however, it were considered that Joseph had a single domicile, and that in Rome, the question would be simpler: then the Regulars would also have to hand over the entire fourth part of the funeral expenses to the Roman Parish Priest. If, on the other hand, it were judged that Joseph had a single domicile, and that in the city N, then it might be said that the Roman Parish Priest should hand over the deceased himself to the Parish Priest of the deceased, according to what Barbosa states in *De officis, et potissimis Parochis*, page 2, chapter 26, number 70: "where the bodies of the deceased are in another parish and must be buried in the churches of the Religious, they must first be brought to the parish church to receive the blessing and the final farewell from the Parish Priest." In this case, only the Parish Priests of the city N would have the right to receive the fourth part of the funeral expenses from the Regulars. With these and other considerations made, the proposed questions are to be resolved. I. "By what means and how can it be established that the two Parish Priests (of the city N) have the right to associate the body (of Joseph) from the gates of the city (N) to the church of the Regulars who are burying him, in this case?" II. "By what means, how, and with whose consent can it be established that the right exists to

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receive the wax used in the association and the fourth part of the funeral expenses celebrated in the city (N), in this case?"

[*Latin ed. p. 634*]

634. RESOLUTION REGARDING AN ASSOCIATION. The Congregation of Bishops and Regulars, on the 6th of May, 1870, decided as follows. To I: Negatively. To II: Regarding the wax offerings of the association, they pertain to the Parish Priest of the City (Rome: however, concerning the fourth portion of the funeral expenses, it is to be divided between the aforementioned Parish Priest of the City and another Parish Priest (of the city N), within whose territory is located the main house of the family (of Joseph). From which, the following are gathered: I. A properly introduced ecclesiastical cause cannot be treated in the Sacred Congregations, unless it has first been withdrawn from the legitimate tribunal by the authority of the Holy See. II. Causes which require a thorough process are not to be treated in the Sacred Congregations, unless at least a preliminary process has first been established in the episcopal curia (1). III. Furthermore, it is gathered that, concerning a deceased person who resided in two dioceses and is to be buried in a third place, the fourth portion of the funeral expenses, which the Church is obligated to provide for the burial, is to be divided between the two Parish Priests of the places of residence. IV. The right of association concerning the deceased pertains to that Parish Priest from the two Parish Priests to whom he belonged, in whose parish he died. V. This right does not cease until the Parish Priest of the association delivers the deceased to the church of the burial. VI. If an association is made for the funeral, which originates from the church of the burial, it appears that the Parish Priest of the association has a right to the funeral association (2). (1) We only have a memory of a certain process which the Holy Father ordered to be carried out by the Reverend Secretary of the Sacred Congregation of the Council, in a certain case of religious profession; when it could not be obtained from the episcopal curia. (2) I said that the Parish Priest appears to have a right to the fourth portion of the funeral association: for it could perhaps be said that the Parish Priest has a right to the entire emolument of the funeral association made; always, however, with the necessary compensation to be made according to natural justice. For someone might argue thus: only the Parish Priest in whose parish the deceased died has the right to associate the body; therefore, only he has the right to all the emoluments that accrue to this association. But it seems more true to the contrary; namely, that if the funeral ceremony originates from the church of the burial and the Parish Priest makes the association, the Parish Priest...

[*Latin ed. p. 635*]

AND OF FUNERAL EXPENSES 635 VII. The rights of another parish priest should not be understood to be violated thereby, since that parish

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priest alone has the right of association concerning the deceased, in whose parish he died. VIII. Therefore, although all benefits are commonly understood by the name of "funeral expenses" to be those which arise from the occasion of the funeral and burial, nevertheless, in these matters, a distinction must be made between the funeral strictly understood and the right of association. IX. Neither parish priest can be excluded from the fourth part of the funeral expenses or from the right of association, because some funeral has already been performed in his church, and the heir of the deceased has received benefits therefrom: since the fourth part of the funeral expenses is not due from the heir, but from the church of the second funeral, for the recognition of parochial rights. X. It is not possible to invoke, to the detriment or benefit of either of the parish priests, diocesan laws or customs which may happen to be contrary to these general rights; unless, perhaps, a legitimate prescription has arisen through long-standing custom between the parish priests of both dioceses. XI. Furthermore, a double domicile is understood, by reason of these parochial rights, if the one who has died appears to have placed himself almost equally in one place and another, so that he has retained both as a place of his own domicile. XII. Given this double domicile, the rights of the parish priests follow; although perhaps the deceased did not wish to acknowledge either of them as his parish. XIII. Finally, a house which exists on the boundary of two parishes cannot be subject to both parish priests, but the parish priest has the right to the fourth part of this association. For this funeral procession, which originates from the church of the tomb, seems to be a certain beginning of a funeral to be celebrated in that church: therefore, the church of the tomb does not seem to be able to be excluded from such benefits, although another parish priest may be excluded, because the deceased is still under the jurisdiction of the parish priest of association. Therefore, in the Resolution of the Sacred Congregation concerning the second doubt, by the words: "As for the wax of the association, it pertains to the parish priest of the city," it was understood to be the fourth part of the association, which, according to the synodal laws of the city of N, as we have seen, consisted of the wax of the association, which, as the fourth part of the funeral association, belonged to the parish priest of association.

[*Latin ed. p. 636*]

636. Only the associations and emoluments pertaining to funerals, to which, in some respect, and at least with regard to the principal gate, one might say he was closer. XIV. At present, Joseph, if, by chance, he did not die in the city of N or in Rome, at least in spirit, both places can truly be considered as his home, and he resided there effectively; therefore, the

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aforementioned parochial rights apply.

[*Latin ed. p. 637*]

APOSTOLIC LETTERS, whereby certain principal points of discipline are established concerning the election of Bishops in the Chaldean Patriarchate of Babylon (*).

PIUS, BISHOP, SERVANT OF THE SERVANTS OF GOD,

To eternal [remembrance]. "Since ecclesiastical discipline is the safeguard of true faith and the firmest protection, inasmuch as it is closely connected with sacred dogma (1), and most effectively contributes to the preservation of its purity, We have long had in mind to order this more carefully, especially in the Eastern Churches, where it is uncertain or inadequately established, to restore it where it has collapsed, or perhaps has been forgotten through the harshness of time, always preserving the rites instituted by the Holy Fathers and approved by this Apostolic See. For We know indeed that, once corrupted and perverted, this same discipline is, in large part, the cause and origin of heresies (2). And since, following the example of the wisest physicians, as Saint Basil warned (3), one must begin with the principal evils, We have considered it necessary to begin with the properly ordered election of sacred ministers. For, as the same Basil says (4), those who govern are usually such that their subjects also behave accordingly."

(*) See other Apostolic Letters pertaining to the Patriarchate of Babylon, which I have explained on page 376 and following, as well as the acts of the secret Consistory held on June 12, 1867, which I have included in Volume III, page 377 and following.

(1) Pius VI, Apostolic Letter, *Quod aliquantum*, March 10, 1791.

(2) Acts of the Council of Trent, Labbé Edition, Colet, Vol. XX, column 75.

(3) Letter 66 to Athanasius, Bishop of Alexandria.

(4) To Amphilochius, letter 190.

[*Latin ed. p. 638*]

638 APOSTOLIC LETTERS are generally thus composed: and it is almost impossible to maintain true Catholic faith without any mixture of error, and to safeguard the sacred discipline of the Church, which Saint Cyprian called the "bond" that holds it together, inviolably, unless the best pastors diligently watch over the flocks entrusted to their care. "In this matter, We have considered it necessary to draw up the decrees of the fathers and to examine the precepts of Our predecessors, so that, with careful consideration, We might temper them as much as possible to meet the needs of the present time, so that they might not seem to exceed the form of the ancient

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regulations in every respect, and at the same time promote the restoration of ecclesiastical discipline. For just as there are certain things that cannot be altered in any way, so too there are many things that, either for the sake of the times or for the sake of necessity, it is necessary to change, with the help of, and as long as, the grace of God continues to operate and progress to the end."

"With this purpose in mind, when We united the Armenian province of Constantinople to the Patriarchate of Cilicia, We gladly seized this opportunity to establish, by Our Apostolic Constitution, certain essential principles of discipline, especially concerning the election of bishops, to be permanently observed in the aforementioned Patriarchate, the beginning of which was published on the 4th of July, 1767. In which We expressly declared that We would, above all, regulate this most important matter of the election of sacred ministers in the other Patriarchates as well. And We did not fail to inform Our Venerable Brothers, the Patriarchs and other ministers of the Eastern rite, who had come to this our beloved city for the secular celebrations of the feasts of the Apostles Peter and Paul.

"Among these was not present the Venerable Brother Joseph Audo, Patriarch of the Chaldeans of Babylon, because he had gone to the mountains of Kurdistan, having set aside the inconveniences of his advanced age and the difficult region, in order to devote himself zealously and usefully, in his own way, to bringing back Nestorians to the bosom of the Church. All the acts of the aforementioned Consistory, held on that day and year, together with the aforementioned Constitution, were sent to Our Congregation for the Propagation of the Faith, which is responsible for the affairs of the Eastern rite. When it received them, at first..." (1) *De Habit. Virgin.*

[*Latin ed. p. 639*]

LETTERS APOSTOLIC 639. To Eliam, Bishop of Akra of the Chaldeans, whom We had commanded, by Our solemn word and in Our name, to represent him before this Apostolic See, and who, through letters sent repeatedly to the aforementioned Congregation, wished to signify to Us that, concerning certain rules to be observed in the election of bishops, he was in no way dissenting from Our will, which he declared he would receive with all diligence and obedience; and that, having regard to the aforementioned order concerning episcopal elections, he hoped that, if it seemed useful and opportune to Us, it would be carried out; and that, as it was a matter of great joy and delight to Us, it should always be so. Moreover, he did not fail to offer another proof of his most devoted sentiments towards Us, proposing several names of priests of his rite, so that We might judge them to be more worthy and more suitable in the Lord, and that We might appoint them as pastors to the Chaldean Churches of Amidena, or Diarbekir, and Mardin, which had been deprived of their pastors: which We have done, by Our Apostolic letters published under the Fisherman's seal on the twenty-

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second of March of this year. All of these things have certainly been a great comfort to Us, and have brought much solace in the tribulations and anxieties in which We are beset on all sides, since they demonstrated the outstanding zeal of the aforementioned Venerable Brother, Our Patriarch Joseph, in seeking the benefit of his flock, and his singular reverence and trust in Us, and in this Holy See of Peter; and thus they led Us to a fuller and firmer hope that, with due order established in all things, the Chaldean Church, which bears so many worthy names, would one day be restored to its former glory. "Having therefore considered all things carefully, and after deliberation with the Venerable Fathers, Our Cardinals of the Congregation of Propaganda Fide for Oriental Affairs, by Our own initiative, with full knowledge, and by the fullness of Our Apostolic authority, We establish and decree the following, to be observed inviolably for all time in the aforementioned Chaldean Patriarchate. I. In the election of the Patriarch, only bishops shall have the right to vote, excluding entirely clerics and priests who do not possess the episcopal character. Furthermore, no lay person shall insert himself in this election, nor shall have any part in it, under any pretext or pretense. II. Moreover, the elected Patriarch, as they say, shall not be enthronized...

[*Latin ed. p. 640*]

640 We do not wish that the Apostolic Letters should possess any right or jurisdiction, not even in a procuratorial or vicariate capacity, over the Patriarchate, unless first the election or nomination of the same [person] has been admitted by Us or by the Roman Pontiff then in office, and has been confirmed according to the established custom, and Apostolic Letters of confirmation of the same have been issued, abolishing any contrary custom. III. To the aforementioned Patriarch, even though confirmed as above by the Apostolic See, it will not be permitted to consecrate Bishops, nor to convene a council, nor to prepare the chrism, nor to dedicate churches, nor to ordain clerics, before he has received the sacred pallium from the same Apostolic See. IV. The aforementioned Patriarch may use the pallium only during the solemnities of the Mass within the *fines* and in the churches of his Patriarchate, and only on those days, namely, on the Nativity of Our Lord Jesus Christ, on the feasts of St. Stephen, the protomartyr, of St. John the Apostle and Evangelist, of the Lord's Circumcision, of the Epiphany, on Palm Sunday, on the Friday of the Lord's Supper, on the Sabbath, on the Sunday of the Resurrection with the two following days, on the Sunday in White, on the Ascension of the Lord, on the feast of Pentecost, of the Most Holy Body of Christ, and also on the four feasts of the Blessed Virgin Mary, always a virgin, namely, the Purification, the Annunciation, the Assumption, and the Nativity of the same; also on the feasts of the Nativity of St. John the Baptist and of All Saints, as well as on the feasts of all the Apostles, on the dedication of churches, on the principal feasts of his own church, on

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the ordinations of clerics, on the consecrations of Bishops and Virgins, and on the anniversary days, both of his own consecration and of the dedication of the church. V. The Sacred Thresholds of the Most Blessed Apostles Peter and Paul, which have been established by law for a long time, the aforementioned Patriarch will personally and through himself visit; and he will render an account to the Roman Pontiff then in office of his entire pastoral office and of all matters pertaining to the status of the Patriarchate, and he will humbly receive and diligently follow the admonitions and commands of the same. VI. Whenever any diocese of the aforementioned Patriarchate becomes vacant, the Patriarch shall first convene a synod of all the Bishops of the same Patriarchate; after which, by the aforementioned Patriarch and by the Bishops assembled in synod, three suitable ecclesiastical men, after consultation, shall be presented to the Roman Pontiff then in office.

[*Latin ed. p. 641*]

Apostolic Letters, numbering 641, are presented, so that from them, a more worthy and more suitable candidate may be chosen, and provision may be made for the vacant episcopal see. However, We do not doubt that the same Bishops will strive to propose worthy and truly suitable men, so that We, or Our successors, may never be compelled to elevate to the episcopal dignity and to place in charge of the Church another, even if not proposed by them, for the sake of the office of the Apostolic ministry. Furthermore, if at any time, due to urgent necessity or the length of the journey, all the Bishops are unable to attend the Synod, as mentioned above, by the Patriarch, then at least three Bishops, who have jurisdiction over their own dioceses, together with the aforementioned Patriarch, shall certainly attend that same Synod, and, in the absence of the others, shall signify their proposal in writing. We decree that all the acts of that same Synod shall be transmitted to the aforementioned Congregation, which presides over the affairs of the Eastern Churches, through Our own and this Holy See's Apostolic Delegate in Mesopotamia, so that, after a diligent examination by that same Congregation, they may finally be submitted to Our judgment, or to the judgment of Our successors. We command that this method be observed without fail in the election of all and every Bishop in the Chaldean Patriarchate of Babylon, for all future times.

VII. In order that, with the exclusion of all lay judgment, the goods of the Church may be preserved, which the canons (1) wished to be under the authority of the sacred prelates; and that the rules established by the same canons (2) for the diligent preservation of these goods and for ensuring their faithful administration may be more firmly observed, We decree that the Patriarch shall not be able to sell, or give, or mortgage, or newly enfeoff, or in any other way alienate possessions belonging to the Church or to his own table, or to any other churches or pious foundations within his Patriarchate; nor shall he consent to their alienation by anyone, without

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the consultation of the Roman Pontiff, according to the form of the oath which elected Patriarchs of the Eastern rite are required to make upon their promotion.

"These things We wish, We command, and We ordain, declaring invalid and void anything contrary to the foregoing." (1) Can. Apios. XXXVIII Concil. Antioch. can. XXIV, XXV, Concil. Gangren. Can. VII. Acta, tomo V, fase. LX (2) Concil. Chalcedon. can. XXVI Concil. Nicaen. fi can. XI.

[*Latin ed. p. 642*]

642 By Apostolic Letters, it may happen, knowingly or unknowingly, that something is attempted which is contrary to them; and We reserve to Ourselves, and to Our Successors, the right to confirm in the future those things which, for reasons of time, place, and persons, are deemed more fitting to be observed in the aforementioned Babylonian Patriarchate. "We also decree that these Our Letters shall always and at all times be valid and efficacious, and shall have and obtain their full effect, and shall be inviolably observed by all to whom they pertain; so that at no time and under no pretext or reason whatsoever may they be declared invalid or null, or may Our intention be deemed deficient, or impugned; and thus they must be judged and defined by any judges ordinary or delegated, exercising any authority, with all power removed from them and from each of them to judge or interpret otherwise. "Notwithstanding Our and Our Apostolic Chancery's rule regarding matters of law not to be revoked, and all other Apostolic constitutions and ordinances, even those issued in synodal, provincial, general, and universal councils; and also the statutes and customs, privileges and indulgences, and Apostolic Letters of the aforementioned Patriarchal Church of the Chaldeans of Babylon, even if confirmed by oath, by Apostolic confirmation, or by any other means; We hereby expressly and specifically, and also appropriately and validly, derogate from all of the foregoing, taken individually and collectively, and from all other contrary provisions, even those worthy of special mention. "We wish that to the copies or printed exemplars of these Letters, even those subscribed by the hand of a public notary and sealed with the seal of a person in an ecclesiastical office, the same full faith be given as would be given to the present Letters if they were exhibited and shown. "Therefore, no human being whatsoever may infringe this page of Our constitution, sanction, prohibition, inhibition, order, precept, mandate, injunction, reservation, decree, derogation, and will, or dare to act contrary to it with reckless audacity.

[*Latin ed. p. 643*]

APOSTOLIC LETTERS 643. Whoever should presume to attempt this, let him know that he will incur the indignation of the Almighty God, and of the Blessed Apostles Peter and Paul. "Given at Rome, near the Holy Peter, in the year of the Incarnation of our Lord 1769, on the eve of the

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Kalends of September, in the twenty-fourth year of Our Pontificate." G. Gori, Subdatary. N. CARD. PARACCIANI CLARELLI. Visited by the Curia, Dominic Bruti. Abbreviated at the Place of Lead, I. Cugnonius. FROM THE HOLY CONGREGATION OF SACRED RITES, Macerata. On the 5th of March, 1870. "Since the entire Clergy of the City of Macerata, together with the Canonici Collegiata of the Church of Saint Salvator, claim precedence over the Mansionaries of the Cathedral, and those who are aggrieved by this matter have repeatedly complained, and finally, in the year 1857, they appealed to the Sacred Congregation of Sacred Rites, and presented to it certain doubts concerning the resolution of this matter. The aforementioned Sacred Congregation, before making any decision, entrusted the matter to the Most Reverend and esteemed Monsignor Amadeo Zangari, then Bishop of Macerata, to hear those who had an interest in the matter and to express his opinion on the controversy itself. However, the aforementioned Bishop, perhaps prevented by death, was unable to present the rights of the parties involved, nor to provide information, nor to express his opinion."

[*Latin ed. p. 644*]

644 MACERATA. Having transmitted [the matter], the affair remained in suspense until, on the occasion of a visitation by the present Bishop of Macerata, the controversy flared up again. To resolve it, the Bishop himself presented new petitions to this Holy Congregation; which, upon receiving them, entrusted the matter to the Advocate, who was to carry out what his predecessor had been unable to accomplish. And the Advocate, diligently obeying the instructions, presented the rights exhibited by the parties, as well as his own information and opinion. After these matters were completed, and a written opinion on the controversy itself was prepared by one of the Masters of the Apostolic Ceremonies, three subsequent questions were proposed by the undersigned Secretary for appropriate resolution, namely:

I. Whether, when the entire secular clergy proceeds together, either with or without a cross, and whether or not they are wearing choral vestments, the Mansionaries ought to separate themselves from their own Chapter in order to yield the place to the Canons of the Collegiate Church, who claim precedence by virtue of a Bull issued on April 21, 1476, by the Lieutenant, namely, Cardinal Julian, the Legate *a Latere* of Pope Sixtus IV, in the Marchia, in which the erection of the aforementioned Collegiate Church is confirmed, and in which these words are found, namely, that the aforementioned Canons of the Collegiate Church ought to sit, stand, and proceed in all functions immediately after the Canons of the Cathedral?

II. Whether the words cited above in the Bull, namely, "sit, stare, incedere, etc.," can and ought to be understood in the way in which they are understood by the Canons of the Collegiate Church; or rather, ought they to

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be interpreted in such a way that precedence is given to the aforementioned Canons before any other moral body external to the Cathedral, and not before the Mansionaries, who, since they form one moral body with the Canons of the Cathedral, are never to be separated from them; especially since the Mansionaries were not yet instituted when the aforementioned Bull was issued?

III. Whether, when the Mansionaries ought to incense and receive the Pax if the Chapter of the Collegiate Church attends the functions of the Cathedral, namely, after the last of the Cathedral or after the last Canon of the Collegiate Church, as the Canons of the same Collegiate Church contend, contrary to the established usage and custom of Cathedrals, and especially of the Metropolitan Church of Firmana?

"And the Holy Congregation, having carefully and thoroughly considered the proposed questions, decided that answers should be given as follows:"

[*Latin ed. p. 645*]

MACERATA. 645 "To the Negative. To the 'li' Negative, pertaining to the first part; affirmative, pertaining to the second. To the III Title, pertaining to the next; and thus it responded and ordered that it be observed. March 5, 1870. C. Episcop. Port., and S. Rufinae Card. PATRIZI, S. R. C., Prefect of Place, % Sign. Dominic Bartolini, S. R. C., Secretary. FROM WHICH YOU MAY GATHER: I. The Clergy of the Cathedral Church, when proceeding as one moral body with the Chapter, whether with a cross or without a cross, ought not to be separated by others, although those who are considered individually are more worthy than those who are Mansionaries belonging to the Cathedral Church (1).

(1) In the Bishop's vote, the reason for the decision was contained, which is usually considered in such matters. The Bishop supported the rights of the Mansionaries with these words: "that, whenever they proceed under a single, or without any cross, they shall be given precedence over the Canons of the collegiate church, because the Mansionaries are supported by the Bull of Erection of the very collegiate church, and moreover, it seems proper that the body of the Cathedral Clergy should not be separated in these processions. Nor should a custom to the contrary be made by the Canons of the collegiate church, since this should rather be considered a corruption, when it subverts the order of the rites prescribed by the Church. As for the doubt concerning the precedence of the offering of incense and the giving of the Pax, it seems to me that it should be given to the Canons of the collegiate church, because in both cases, it seems more appropriate to consider the rank or stall, rather than the reason of the unity of the body. Moreover, since the custom is in the church of Macerata, that on some more solemn days, in the Pontifical Mass in the Cathedral, the Canons of the collegiate church assist in the presbytery, to whom the Deacon Canon

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offers incense, it is the minister of the celebrant. Furthermore, if it should happen that the Mansionaries should precede the Canons of the collegiate church in the offering of incense, it would happen that the Canon Deacon would have to offer incense to Clerics of a lower order or Mansionaries, and then proceed to offer incense to the Canons of the collegiate church, or to set down the thurible, until incense is offered by the Master of Ceremonies to the Mansionaries, and then to take it up again from him and offer incense to the Canons of the collegiate church: but both of these seem quite inconvenient. The same argument recurs whenever the precedence of the Pax being given to the Mansionaries, rather than to the Canons of the collegiate church, is discussed; the same inconveniences occur."

[*Latin ed. p. 646*]

In L'Aquila, the cult rendered to the Servant of God Timothy of the Mountain, a priest, professed member of the Order of Friars Minor of Saint Francis, now Blessed, has been practiced from time immemorial. Decree. "Whereas, the Reverend Father Vincent, a tennis, Postulator of the Causes of Beatification and Canonization of the Servants of God of the Order of Friars Minor of Saint Francis, Reformed, has diligently demonstrated, from irrefutable documents, that the public and ecclesiastical cult has been rendered to the Servant of God Timothy of the Mountain, a priest, professed member of the Order of Friars Minor of Saint Francis, from time immemorial, namely, before the hundred years required by the decrees of His Holiness Urban VIII, and that this cult has never been interrupted, continuing to the present time, and he has urged that the same cult be confirmed by this Holy Apostolic See; the Most Eminent and Reverend Cardinal Alexander Barnabò, in place and by the authority of the Most Eminent and Reverend Cardinal Hannibal Capalti, Promoter of the Cause, proposed the following question for discussion at the Ordinary Congregations of Sacred Rites held today in the Vatican, namely: "Does it appear that the public and ecclesiastical cult rendered from time immemorial to the aforementioned Servant of God, or to the case, is exempt from the decrees of His Holiness Urban VIII?" The Most Eminent and Reverend Fathers, Prefects of the Sacred Rites, after mature deliberation, and after hearing the Reverend Father D. Peter Minetti, Promoter of the Holy Office, express his opinion orally and in writing, judged it necessary to respond affirmatively, that is, that the case is exempt. March 5, 1870. "Concerning all of the above, a report was subsequently made to His Holiness Pope Pius IX by the undersigned Substitute of the Congregation of Sacred Rites, and His Holiness approved the Decree of the Sacred Congregation, and confirmed the public and ecclesiastical cult rendered from time immemorial to the Blessed Timothy of the Mountain, Confessor. March 10, of the same month and year." C. Episc. Portuen. et S. Rufinae CARD. PATRIZI S. R. C. Prefect. In place of His Eminence, the Sign of

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the Cross. For the Blessed Peter, D. Dominic Bartolini, Secretary. Joseph Ciccolini, Substitute.

[*Latin ed. p. 647*]

FROM THE HOLY CONGREGATION OF BISHOPS AND REGULAR CANONS, May 6, 1870. In this fifth volume of the chronicle, which is completed by this very issue, much has been discussed concerning the rights of burials and cemeteries. We hope that in the next volume, we may be able to report more frequently on other rights of the faithful, which evoke the life of Christian society, rather than death. We therefore anticipate this from the Fourth Session of the œcumenical Council of the Vatican (1). Summary of Facts. After the devastation of churches and the civil governments, which began in the late eighteenth century, in the new order of things, in accordance with the growing social progress, the welfare of human beings was also considered; namely, the churches were denied the right to bury the faithful, and the ability of the faithful to choose their own burial place was restricted, so that almost all the deceased, by civil regulations, were forced to be buried in public cemeteries outside the cities. Even the Pontifical Government was not exempt from a similar law: for, through a Council, which bears the name "Consultation," and which presides over public health in the Pontifical States, certain edicts were issued in the year 1817 to establish public cemeteries; however, the execution of these edicts encountered many difficulties. (1) The very Session of the Vatican was held on the day that the entire Church celebrated the feast of Saint Camillus de Lellis, who was moved by God to assist souls struggling in their final agony. The coin, which, as is customary, is minted and distributed each year by order of the Holy Father on the Nativity of the Holy Apostles Peter and Paul, bears this year the inscription: "The Roman Cemetery, completed."

[*Latin ed. p. 648*]

648 CEMETERIES. What always happens when any law is opposed to long-standing and reasonable customs. For the mores of the people are more often governed by ancient customs, which themselves constitute mores, than by written law, unless great vigilance on the part of authority or force is added. Therefore, in many dioceses of the Pontifical States, the erection of such cemeteries could not take place; and even in the City itself, it was only many years later that a public cemetery was begun. A few years ago, the suffragan Bishop of the city of N, after hearing the Parishes, as well as the Municipality of that same city, decreed the erection of a public cemetery, and established rules for regulating funeral matters. In such rules, the first article stated: "All inhabitants of the city of N and of the adjacent towns shall be buried in the public cemetery..." The second article stated: "The General Vicar of the Bishop, and the Pontifical Delegate for matters of the province, are exempt from this law, as are

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persons of higher rank, as well as those privileged by the laws of the City of Rome, and the owners of all the tombs of their nation or family, with the proviso, however, that such burials shall not be granted, acquired, donated, bequeathed, alienated in any way, or transferred from one family to another, or from one person to another, without the express permission of the Most Reverend Bishop." The fourth article stated: "In order to compensate the parish churches for the loss of emoluments, it is forbidden to hold wakes, in the presence of the body, in other churches; and all first funerals must be held in the parish church, although the deceased has a family tomb or burial place, in which the heirs wish to bury him, and although the deceased himself was attached to a collegiate church or chapter; and so that, after the funeral celebration in the parish church, and not before, the deceased may be transferred to the family tomb to be buried at the expense of his family; and that the same church, burying him, shall have no right to funeral emoluments or to the fees for the funeral service, but only to the burial tax, to be paid by the heirs, according to the form of the diocesan synod. If, however, the funeral rites are to be held with the body exposed in the burying church, this must be done without any prejudice to the parish church, to which, therefore, all due respect and all emoluments are owed, except for the burial tax as mentioned above." The Cathedral Chapter, having learned of such rules, at the chapter meetings held on August 20, 1867, observed...

[*Latin ed. p. 649*]

The Congregation [for Bishops] opened its deliberations, stating: "Such arrangements require moderation due to the inconveniences that would arise from them." Specifically, it raised objections to the first and second articles, particularly because the Chapter would have habitual jurisdiction over the cathedral, in which both its own members and the bishop would be buried; and such a deprivation of canonical rights, whatever may be said about the statutes of the Roman Church, would not be compatible, since the Regular clergy are, by law, exempt from the public cemetery. Furthermore, the Congregation continued, if, in the second article, those who possess family tombs are exempt, then the Canons should also be exempt for the same reason, since they enjoy their own burial place; and just as, in the same article, higher dignitaries are exempt from the law of the public cemetery, so too the Chapter, which is the Bishop's Senate and therefore a group more distinguished than others in the entire diocese, should also be exempt. Moreover, the purpose of the public cemetery is to promote public health; but this public health suffers no harm if the Canons are granted their own burial place, just as, in Rome, it is not considered to suffer any harm from the privileges granted to Cardinals, Archbishops, and Bishops; nor is anything considered to suffer in the city itself because of the use of family tombs. And for such reasons, if the Canons are to be

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buried in the cathedral church, the funerals of the Canons should also be conducted according to the laws of the common law. Furthermore, it was noted that in the same cathedral there existed a chapel, in which, because of the image of the Virgin Mary, greatly venerated by the faithful, the faithful were accustomed to choose a burial place in that chapel, paying a sum to the sacristan, which constituted the principal source of income for him, which, according to a diocesan synod, should be spent on the maintenance and decoration of the church; and the Canons themselves would contribute their own sums. If such burials were suppressed, the sacristan's income would cease without any compensation, etc. The current suffragan bishop, referring the same regulations to his own Ordinary, held the opinion that these regulations should be submitted to the Holy See for approval, since they contained certain aspects contrary to common law; and he made his observations, noting that, since there was universal opposition to the public cemetery, if these regulations were further relaxed, new complaints from many others would arise, and the law would easily be rendered invalid.

[*Latin ed. p. 650*]

650. CEMETERIES. The Bishop of that diocese presented these rules to the Holy Congregation, requesting that they be approved with the modifications that the Holy Congregation deemed necessary. After hearing those for whom this matter was of interest, the Rectors of the churches in which pagan tombs exist, requested that, provided the right of burial remained intact, the structures and coverings of the tombs be preserved; but the Parish Priests readily conceded that such an article should be reduced to the form of common law; although, as it lay, it imitated the statute of the Roman Church. These things being stated, the rules were presented to the Holy Congregation. A synopsis of the discussion follows.

I. MATTERS WHICH ARE ADDRESSED EX OFFICIO. He who writes the consultation first of all briefly recalled the history of the matter of burials. He noted, that according to the twelve tables, it was prescribed that a dead man should neither be buried nor burned within the city; that such a disposition, as Ulpian testifies, had been extended by the Emperors to all the cities of the Roman Empire; that the Church, in the early centuries, followed this law, as the common monuments testify, such as the catacombs and crypts which are seen in Rome, which, because of the faith in the resurrection, were called cemeteries or sleeping places. After the cessation of persecutions, the cemeteries remained separate from the temples, but generally approached the temples, as Tomassini, *Vet. et nov. Eccles. disc. de Benef.*, p. S I, c. 66, n. 10, states; and this happened because of the piety of the faithful towards the Martyrs, who were buried only in the temples, and those temples were often built in their honor; and such was the piety towards the heroes of the faith, that the faithful desired to be buried as close as possible to their memories after death; and since they could not

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be buried within the area of the temples, they were buried against the outer walls of the basilicas, according to the tradition in canon 15, cause 13, question 2, of the Council of Varensis, where it is written: "It is also to be prohibited, according to the institutions of the ancients, that no one be buried within the church, but in the atrium or portico or in the exedras of the church." However, it was permitted for Bishops and other persons of dignity or singular sanctity, according to the tradition in canon 18 from the Council of Magotiensis: "No dead person shall be buried within the churches, unless it be a Bishop or Abbot or a worthy Presbyter or a faithful layman."

[*Latin ed. p. 651*]

COEMETERIES 651 But the desire to have a place of burial within the churches has increasingly grown among the faithful, and the custom has prevailed of burying them there as well, as is stated in chapters d, b, and Q concerning burials, which has passed into common law. And this is not without a serious reason, as has long been stated in canon 17 of the 13th question: "It is beneficial for the dead if they are buried in a church, because those who are nearby, whenever they come to those sacred places and see the burial of their loved ones, remember them and offer prayers for them to the Lord." Therefore, with this custom growing stronger, and then being confirmed by law, it is not surprising that difficulties arise with the new law, which ordains that the faithful be buried in public cemeteries outside the cities for the sake of public health, due to the state of affairs that the old custom had established: therefore, in establishing public cemeteries, things must be regulated in such a way that, while public health remains paramount, the rights of burial are, as much as possible, respected.

THINGS REPROVED CONCERNING THE PROPOSED RULES.

It has been noted that the Pontifical Delegate, who represents the Roman Pontiff in civil government, and the General Vicar, who represents the Bishop in the administration of the diocese, are exempt from the law concerning cemeteries; but it does not seem inappropriate that the Canons should also be exempt, since they not only represent, but constitute the real Senate of the Bishop, and are considered more worthy than others who enjoy a common burial. All the more so, because it is established by law that Canons who have a burial place in the cathedral, and also a common burial place, should be buried in the cathedral, and not in the common burial place, as was declared in Tivoli on May 12, 1618: concerning the doubtful proposition: "Whether a Canon who dies without a designated burial place should be buried in the cathedral church as his parish, or rather in the burial place of his ancestors?" The answer given was: "In the cathedral, if there is a place for Canons there; otherwise, in the burial place of

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his ancestors." Therefore, if common burial places are to be maintained according to the proposed rules, all the more reason should be given to maintain the burial places of Canons, which, by the very law, are to be preferred to common burial places. Furthermore, it seems just that those who wish to be buried in the aforementioned chapel, which was located within the cathedral itself, should be exempt from the law concerning common cemeteries, for reasons alleged by the Canons, since it would be a kind of common cemetery.

[*Latin ed. p. 652*]

652. CEMETERIES: Since the taxes levied on those buried in cemeteries often amount to ten times the expenses of the sacristy, many are drawn away from choosing that particular burial place. Moreover, the rules we are discussing appear to infringe more severely upon the rights of churches that have burial grounds, because they deprive these same churches of the right to bury, contrary to the very Edict issued by the Holy Congregation in the year 1817, in which it was stipulated that the parochial revenues, whether derived from endowments or legitimate customs, should be preserved (1); this provision, indeed, should also be applied to churches with burial grounds, as the Holy Congregation applied it in the case of Ariminen, on May 14, 1825, in which case it was observed: "Indeed, cemeteries have been established in place of the burial grounds of individual churches; therefore, the church, which previously had the right to bury in its own burial grounds, now exercises that right in the public cemetery; therefore, the right to bury has not been abolished, but rather the location has been changed, which, in fact, does not prevent the collection of revenues and the performance of funeral rites." This same doctrine has been widely cited in similar cases, and even more so in the matter of churches in which the right to bury is maintained according to the proposed rules. It is true that the establishment of a public cemetery causes the pastors to lose the revenues from burials; but, overlooking this, such a detriment would also be borne by other churches that could have burial grounds; this loss of revenues can be compensated for by other means, but not by the deprivation of rights enjoyed by others. Furthermore, the question can be raised as to whether it is advisable to preserve family and private burial vaults. Such preservation has been prohibited by the edictal law of the Holy Congregation of 1817, by the words: "It is expressly forbidden to any church, even if privileged, or having private burial vaults, to bury corpses in churches or parishes," which in Latin reads: "It is absolutely forbidden to anyone, even if privileged or possessing a private burial vault, to bury a corpse in churches or parishes." Although the same Holy Congregation somewhat tempered this law on May 15, 1825, it nevertheless retained the substance of the matter (2).

(1) It is worth recalling what I wrote in Volume I, pages 124 and follow-

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ing.

(2) By encyclical letters of the Holy Congregation of May 15, 1825, this was dis-

[*Latin ed. p. 653*]

COEMETERIES 653. It must not be overlooked that, in the aforementioned regulations, no mention is made of the Regular clergy. Indeed, the Holy Congregation did not, in the year 1817, exempt the Regular clergy from the law concerning common cemeteries; nevertheless, Pope Leo XII, of blessed memory, in a Motu Proprio dated February 28, 1824, article 1, decreed that Regulars of both sexes should be buried "in their churches or in cemeteries within the enclosure" (1). Furthermore, when the intention arose to establish a cemetery in Rome, in the area of Verano, the Cardinal Vicar of the City, through encyclical letters dated June 19, 1837, revealed the opinion of Pope Gregory XVI, of blessed memory, in these words, translated into Latin: "Article 6, of the present principal regulation, 'are excepted only the Supreme Pontiff, Emperors, Princes of royal blood, Cardinals, Bishops, and those prelates who are called *di fiocchetto*, and all those who already possess chapels with a family or noble tomb.' But, since complaints were brought before the Holy Congregations of Bishops and Regulars by Regulars residing in Perugia, who had not been exempted from the law concerning the common cemetery of Perugia due to interim regulations that had been issued, the matter was inquired into by the Cardinal Vicar of the City, who, on November 23, responded: "Regulars of both sexes, who have burial within their churches or attached monasteries for the religious community, are exempt from being buried in the public cemetery, and this is by virtue of article 6 of the aforementioned regulation... This exemption signifies: 'In these places, the Bishops will warn the parish priests and other rectors of the churches, and the superiors of the convents and monasteries, not to bury any person in their churches, and they may punish those who transgress with penalties at their discretion. To the Bishops, however, will be granted the faculty to, for some reasonable reason, allow certain persons, e.g., the patrons or benefactors of the churches, those who have noble tombs there, to be buried in the church, but it is recommended to the same to use such faculty with great prudence, so that no disturbances or other inconveniences may arise. Moreover, they must submit a request to use these faculties.' (1) Subsequently, somewhat different provisions were made by the Health Congregation, specifically appointed for the establishment of the Perugian cemetery; indeed, the same Congregation wrote to the Delegate of the Perugian Province: "It has been most strongly expressed by the Sovereign [i.e., the Pope], that, except for the Ordinary [i.e., the Bishop], everyone must be buried there without distinction of rank or condition, whether they are secular or ecclesiastical or Regular, except for nuns who are cloistered, and for religious, that is, Regulars, who have a particular

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cemetery outside the town." The same Congregation, on April 14, 1838, decreed: "Wherever public cemeteries exist, burials should be resumed without distinction of rank, class, or condition."

[*Latin ed. p. 654*]

654 CEMETERIES: "It has also been confirmed by constant usage and custom since the issuance of the aforementioned decree." In the case of Perugia, documents were also presented which demonstrated that this exemption for religious orders was observed in the principal cities of the Papal States. Therefore, the following question was presented to the Holy Congregation, specifically designated for this purpose: "Whether and in what manner claims of religious, of both sexes, and specifically of nuns from the house of Saint Agnes, against the new regulations concerning burial, should be admitted." The Holy Congregation decided on June 13, 1851: "Affirmatively, and the privileges of religious of both sexes must be observed."

E. REGARDING MATTERS NOTED CONCERNING THE EXPOSED RULES. Conversely, concerning the rules to be approved, it was noted that the exception made for the General Vicar from the common cemetery law appears to conform to the law issued by the Holy Congregation in 1817 and subsequent declarations by the Congregation for Public Health; because it is stated therein that all must be buried in the common cemetery, except for the Ordinary. Moreover, the General Vicar of the City of N, of whom we are speaking, is often a suffragan bishop who, by common custom, is exempt from the common cemetery. Furthermore, family tombs must be maintained, as evidenced by the aforementioned encyclical letters of the Eminent Vicar, the provisions of which, applied by the Congregation for Public Health, were also extended to the provinces of the Papal States. This is not without reason; for although there are Doctors who, according to the Glossary in chapter one, on the law of patronage, in the sixth section, and in chapter six, on the law of religious orders, in the sixth section, assert that the right of burial is to be considered among the honorable rights of the patron; others, on the contrary, deny this, as Lambertini de iure patr. L. 1 p. 1 q. 11 art. 12, Lotter. de Benef. I. 2 q. 4 n. 22, Ventrigl. prax. for. annot. 1 de Iurep. § 4 n. 13, Rota dec. 162 n. 17 cor. Bichio and elsewhere; it is nevertheless certain that the patron can reserve such a right for himself with the consent of the Bishop, as the Holy Congregation decided in Seguntina on January 24, 1602, lib. 10 Decret, page 21. Therefore, family tombs derive either from patronage or from some special concession; in the former case, the right of burial is usually joined with the act of foundation or endowment; in the latter case, it is usually joined with some grant or donation made to the church for which the privilege of the tomb was

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granted: in both cases.

[*Latin ed. p. 655*]

COEMETERII 655, however, by chance, establishes a right to a burial plot, conferring a certain burdensome title, in compensation for which that right has been granted: therefore, unless the necessity of the public good absolutely demands it, it does not seem equitable to abolish such rights. Especially since such a right to burial, if it were abolished, would also entail the burden of restoring chapels, etc., to the detriment of the church itself. This, however, cannot be the case if we are speaking of a burial plot belonging to the Canons; for the Canons cannot possess such burdensome titles, in compensation for which a burial plot has been granted; therefore, in this matter, the law regarding the precedence of a canonical burial over a family or ancestral burial cannot be invoked: for that law of precedence would not only concern the Canons, but the entire Clergy, if a burial were established for the entire Clergy, as Nicolius states in *lucubr. civil.*, I. 4, title 15, number 23, last line: "A cleric is not buried in the tomb of his ancestors, when 'in the Cathedral or in the Mother Church, a burial place proper to the clergy is present, separate from the laity.'" Also, Monacell. in *supplem. ad tom. 1*, number 176; Pax Iordan. in *Som.*, 3, I. 14, title 30, number 45; Ferraris in *Biblioth. can.*, under the word "Canonicus," article 8, number 11. Nor does it seem permissible to exempt the chaplain of the Blessed Virgin, which the Canons wished to be exempt; for, besides the fact that every privilege is odious to the common law, this very exemption would render the law itself futile; for, since our people often avoid public cemeteries located outside the cities, that chapel could easily be converted into a common cemetery, without regard for any tax on its size, since the greed for money ceases or at least diminishes with the danger of death, and the sense of religion prevails. Furthermore, there are other observations regarding the right to burial, in which those rules largely corresponded with the rules of the Roman Statute of the clergy, according to the well-known case discussed in the Holy Rota, which I mentioned on page 209 and following. However, it is noted that in the city of N, those circumstances do not seem to prevail that exist in Rome, so that such provisions would not have a place there: but in this matter, the Parishes of the city of N have not shown themselves to be averse to following the common law; therefore, the difficulty ceases. Another difficulty also ceases with regard to the Regular clergy; for the aforementioned encyclical letters of the Most Reverend Vicar of the City, which are also applicable to other provinces of the Pontifical Patrimony, have been understood in such a way that...

[*Latin ed. p. 656*]

656. Regular cemeteries are considered to be among those who enjoy a pleasant family life. It is doubtful whether it is expedient to approve of the

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proposed rules in a particular "case."

RESPONSE. The Holy Congregation of Bishops and Regular Canons, having knowledge of the matter, decided on May 6, 1870, to respond as follows: The Most Reverend Bishop should use his ordinary jurisdiction in establishing and approving rules for the use of the cemetery.

FROM WHICH WE GATHER: I. The Holy See does not usually exercise its authority to approve laws that Bishops are obliged by their own right to enact in the administration of the diocese (1). (I) To confirm this, what I have explained in Volume II, page 255, and following, may be recalled. If the Sacred Congregations are consulted in particular cases that require more thorough investigation, which cannot be defined by episcopal authority, then, after a careful examination of the matter, they will resolve the issue; but the Holy See does not usually add its authority to laws or regulations, whether for the entire diocese or for a particular institution within the diocese, which are presented for approval, since this pertains to the ordinary authority of the Bishop. However, these should not be confused with the acts of provincial Synods; although even their approval is not a true approval, but a simple review, in which the Consultants usually offer important observations on matters that might deviate from ecclesiastical laws; and these synodal acts acquire no particular value from this authentic review: for the episcopal or provincial laws remain, and some part of which, if for some reason it is subsequently brought before a formal judgment, may even be declared and judged to be illegitimate, unjust, or erroneous; although, after the aforementioned review, it is very difficult for such a thing to happen, due to the diligent examination to which the acts are subjected, as may be seen in the work of Angelus Lucidi on the Holy Canon Law, Volume I, page 194. True approval of laws occurs when it is a matter of transactions concerning the rights of churches, which in some way harm common law, or affect the rights of successors: these laws concerning transactions usually require Apostolic authority to remain firm. Also, true Apostolic approval occurs in the Constitutions of Regular Canons, (which is an act wonderfully demonstrating the primacy of the Roman Pontiff over the entire Church, since through him these communities are withdrawn from the jurisdiction of the civil power).

[*Latin ed. p. 657*]

657. Once a public cemetery has been established for the faithful, it pertains to the Bishop to adapt the ecclesiastical laws to this new situation, and to establish regulations for governing the rights concerning the use of the cemetery.

III. Since public cemeteries are said to be established for a public, profane reason of health, the ecclesiastical legislator ought to act in adapting ecclesiastical laws and governing rights, so that, as little as possible, the ecclesiastical rights of the faithful and of churches are lost or hindered (1).

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Under the jurisdiction of the Bishop, in accordance with the sacred canons, these same Constitutions become Pontifical laws, in which Bishops cannot intervene. Something similar happens to a greater or lesser extent in other ecclesiastical communities, which seek the approval of the Holy See for their Constitutions; this approval is granted after a thorough examination of the matter. Except for these and similar particular laws, the Holy See does not usually interfere in the laws drawn up for the administration of dioceses.

(1) The true reason why public cemeteries are established in many regions of the Catholic world by civil authority is not, according to our judgment, the public health, which had already been considered and consulted in cases of epidemic disease; but rather another, somewhat deeper reason, which spontaneously derives from the principles by which the present civil society is governed, of which we have written something in Votum. III, p. 44, in a note. But, whatever the origin and cause of this matter may be, it is evident that the matter in itself is indifferent; it could indeed only be debated as to what is more useful for the faithful, according to the variety of places. When the matter in itself is indifferent, the Church, which does not hostilely introduce such new institutions, easily adapts its laws, and in the *Acta Romae*, volume V, page LXI, we also see a public cemetery most generously constructed. But in adapting such laws, the Church acts in a completely different way than do demagogues when they innovate. These rash men overturn everything, and intend to do something entirely new, destroying everything that is old. On the other hand, the Church, in matters of discipline that are properly established, and that are to be changed for some external reason, only changes as much as the necessity of change requires; and it retains everything that can be retained; at least, it preserves the memory of the things that have been changed. We could show countless examples of this, which are not lacking in these publications. Especially since the matters being changed are those that are being dealt with in the present, which seem easily to be returning to their former state. Such public cemeteries will have the same fate as they had in the first centuries of the Church, provided that, while the faithful piety prevails, the Catholic religion once again dominates among civil governments. Gradually, without anyone noticing, those who seek public health will remain outside the cities, while the faithful, from an indelible sense of piety, will seek to be buried in or near temples, which they prefer. I said from an indelible sense of piety, which St. Ambrose so eloquently expressed concerning his own burial (42).

[*Latin ed. p. 658*]

658. CONFERENCES IV. When establishing regulations, although it is useful to consider what has been done and established in Rome or in other dioceses, the particular legislator must nevertheless direct his attention to

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the state of his own diocese, to its customs, and to the nature of its people, so that the law, promulgated within the limits of its jurisdiction, may be appropriate, and if it should be brought to judgment, it may be judged wise. In the letter 55: "Let the sacrificial victims follow where Christ is the sacrifice, but He is above the altar, who suffered for all; these are below the altar, who are redeemed by His passion. I have destined this place for myself. For it is fitting that the priest should rest where he is accustomed to offer. But I yield the right portion to the sacred victims; this place is due to the martyrs."

(1) From the great esteem with which we acknowledge Rome as the head and teacher of the entire Catholic world, it is not uncommon to hear some inquire how ecclesiastical matters are administered in that city, with regard to one or another discipline. And this is done for the reason that they may be able to decide in their own dioceses accordingly. But in this matter, a great error may arise: for, because the city is the head and teacher of churches, it often happens that it is governed by laws that may not be suitable for other dioceses. For in the city there exists the supreme legislator of the Church, with his Curia, to expedite the affairs of the entire world. The splendor of the Curia encompasses almost everything that pertains to Rome as a diocese: hence the abundance of clergy, hence many centers of the clergy, especially through the patriarchal and other basilicas, whose superiors, who are cardinals, exercise a jurisdiction almost like that of bishops. There exist almost all families of religious orders or other communities, and countless temples, etc. You may inquire in each diocese which ecclesiastical persons are to be consulted; there you will immediately find the Bishop, Canons, Parish Priests, and other clergy; but such elements are not so easily distinguished in Rome, as in a diocese. Parish priests, for example, who in other dioceses are under the faithful people, in Rome, on the contrary, are almost different. In the state of affairs of the Roman diocese, it cannot be indiscriminately asked how one or another matter is administered, so that the same administration may be repeated in another diocese; but it must be asked what are the general ecclesiastical laws that Rome has promulgated for administering those same matters.

[*Latin ed. p. 659*]

JURISDICTION OF PARISHES AND TITHES. May 6, 1870. Because of many circumstances, the nature of this case is exceedingly complex; we will indicate only the substance of the case, so that the Decree of the Most Holy Congregation may be understood. Summary of the Facts. In the city of N, from ancient times, the care of souls was administered promiscuously by four parish priests (of whom the principal was the Rector), throughout the entire territory of that city; indeed, no distinction was made between the parishes, although four parish churches with their own parish priests existed. In the year 1677, with the intervention of the Bishop, the rectors

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of those churches, after dividing the entire territory into four parts, agreed as follows: all families that at that time were within that common territory should henceforth recognize as their own parish priest that one whom they had recognized before the division of the territory. A public instrument was drawn up of this agreement, and all the agreements were approved by the Bishop of that time, with this clause also added: that the families and houses within said territory, as above stated, should remain firm and valid, and that the right of the Reverend Rector should be preserved and reserved over those who should newly come to reside within said territory, who should always be subject to the same parish church (which was the mother church). Also, the rights of demanding tithes by houses and families were likewise confirmed and remained in full force. It is affirmed that this custom has prevailed, and it includes the following: 1° that those family members who received food from families exempt from the jurisdiction of the Rector should be considered as members of those families, and therefore exempt from the Rector's jurisdiction; those family members, however, who did not receive food from families, or even those who lived in those families after paying a pension, should not be considered as parts of those families; and therefore they should be subject to the Rector; 2° that the wife, by marriage, passes into the parish of the husband, even though the husband moves to the wife's dwelling. This custom has persisted until now, from which it is apparent that the parish jurisdiction was still administered by families, as long as...

[*Latin ed. p. 660*]

660 Of PAROCHIAL JURISDICTION and of the DECIMAS which did not cease, families existed at the time of the convention, of which many remained. It frequently happened that members of the same family belonged to different parishes. Although the exercise of such jurisdiction was very complex, each parish priest did not neglect to safeguard and defend his rights, among which was the emolument of the decimas, which consisted of a certain measure of grain and *musti*. Many questions were raised by the parish priests concerning the jurisdiction and the decimas with respect to families, some of whom had been transferred to one territory and others to another, either by themselves or by inheritance, and also with respect to families who no longer resided there, but who had some administrator or steward in their established dwellings and possessions, and similar matters. Among the rights which were duly observed, mention was made of a certain case from Bayonne, which was brought before the Most Holy Congregation on May 28, 1732, which was somewhat similar to our case. Four doubts were presented to the Holy Congregation, which, after careful consideration and deliberation, were resolved according to the norms of justice. To the final formula of doubt, the Holy Congregation added its opinion with these words: "It is the intention that, as soon as it can be conve-

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niently done, the Ordinary should proceed to the territorial division of the parishes, even beyond the boundaries of the city, in accordance with the form of the Holy Council of Trent." FROM WHICH IT IS UNDERSTOOD: In places where parishes are administered promiscuously or by families, without regard to the territory they inhabit, the Bishops must take care that, after a careful division of the territory, the parishes are established and administered in accordance with the form of the Council of Trent (1). (i) The Council of Trent, session 25, chapter 13, concerning Reform, states: "Also, in those cities and places where parochial churches do not have certain boundaries, nor do their Rectors have a proper people whom they govern, but administer the sacraments promiscuously, the Holy Synod commands the Bishops, for the safer salvation of the souls entrusted to them, that they assign a distinct people to certain and proper parishes, each with his own perpetual and particular parish priest, who may know them, and from whom the sacraments may be lawfully received, or in another suitable manner, as the circumstances of the place may require."

[*Latin ed. p. 661*]

FROM THE HOLY CONGREGATION CONCERNED WITH THE INTERPRETATION OF THE DECREES OF BISHOPS AND THE REDUCTION OF BURDENS, July 9, 1870. Summary of the matter. The Most Holy and salutary work of Visitation, performed in the year 1868 by the Bishop N, revealed in the Cathedral Church certain matters, both concerning the celebration of divine offices and the Sacraments, and also concerning the care of souls and the worship of the Church, which appeared worthy of correction and reform. Therefore, the following Decrees were issued:

"1° That, according to the Constitution *Cum Semper*, of Benedict XIV, the conventual Mass, that is, the Mass which is sung daily by the Canons, should, notwithstanding any custom, as is stated in that Constitution, be applied daily for the benefit of benefactors, declaring that the Canons do not sufficiently fulfill their duty by celebrating the Mass in another way and applying it for the benefactors; and that only on those days on which the Pontifical Mass is celebrated, can, indeed, ought, according to the Decree of the Holy Congregation of Rites, the Canons celebrate the conventual Mass privately and apply it for the same benefactors.

"2° That, in the future, according to the *Caeremoniale Episcoporum* and the Decree of the Holy Congregation in *Limen*, Sarzana, in those cities and places where parishes have been lawfully distinguished, the dioceses and parishes, and the proper attributes of each flock, should be clearly defined, without prejudice to any privileges and customs, even those of ancient churches, so that each pastor may take care of his own flock, as the Council indicated in Canon 14, chapter 9, of the Decree on Reforms, with

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these words: 'And let the order of the Church not be confused.' "

[*Latin ed. p. 662*]

662 OF ECCLESIASTICAL DECREES: "December 1824. Whenever the Bishop, for the time being, celebrates the Pontifical Mass, the Third [Antiphon] shall be sung in the Chapel of the Purification of the Blessed Virgin Mary. In that chapel, in a prominent location, shall be placed the Pontifical seat, or faldstool, for the Bishop's preparation and for the vesting of the sacred vestments. Around it, seats shall be prepared for the Chaplains and other members of the clergy.

3. That a new table of choral hours be prepared by the Canons, to be approved by Us, according to which the divine offices shall be celebrated, and it shall never be permissible, without Our permission, and (in Our absence) that of Our Vicars, to change the choral hours.

4. That the time prescribed by the Rubrics for the celebration of the Conventual Mass shall be strictly observed, and it shall never be permissible, unless for a grave reason and very rarely, to celebrate it at another time.

5. That the remaining Masses, prescribed by the Rubrics for certain days, shall be read or sung according to the custom, at the hours established by those same Rubrics; but they shall never be read at the time when the canonical hours are recited, unless it is shown from the Apostolic Privilege within two months.

6. That no Canon shall be permitted to be absent from the choir without Our permission, according to the Decrees of the Holy Congregation of Rites, during the seasons of Lent and Advent, and during the more solemn festivals of the year, among which We declare the feast of the Precious Blood of Our Lord Jesus Christ to be a solemnity.

7. That no Canon, except during the Penitentiarial Office, shall be permitted, during the time when the divine offices are performed in the choir, to hear confessions or to celebrate Mass, unless out of necessity, as declared by the Holy Congregation in Lünen, Sarzanen, on July 8, 1817, notwithstanding the most ancient custom that was alleged; this necessity shall only be considered on days of precept and on certain other days, on which there is frequent attendance of the people at the church, and no sacred function is performed. Therefore, We command that on those days, and on no other day privately, a Mass may be celebrated by the Canons, and provided that the choir is resumed after the celebration. Those who disobey shall be marked as absent.

8. That the Canon who marks attendance shall observe the synodal constitutions concerning the Canons to be marked, and furthermore, We command that those who do not attend the solemn processions of the Most Holy Sacrament on the feast of Corpus Christi and its octave, and on the feast of the Precious Blood of Our Lord Jesus Christ, shall be marked for

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absence eight times for each occasion."

[*Latin ed. p. 663*]

AND CONCERNING THE OBSERVANCE OF CERTAIN MATTERS: 663 "9° That the custom of performing the divine offices and the conventual Mass, and of celebrating other services therein, be maintained in the sacristy on weekdays during the winter season, that is, from the 25th of November until the week before Easter, and also on other days when the church choir is present.

"10° That a Prefect of the choir be always present, namely, one who will take care that all things are done in order and at the proper times in the choir, to whom all must obey; and that no one may depart without his permission, or begin the office or the hours: declaring that, in our absence, the office of the Prefect shall be performed, according to the diocesan synod, by the one who, from his rank and canonical dignity, is the most worthy present in the choir.

"11° That the Canons strive to observe and to make others observe what is established in the same synod concerning modesty, reverence to be maintained in the sacristy, and in entering and leaving the choir; that, moreover, they most strictly observe all that is contained in the same synod concerning the distinct, devout, and harmonious recitation or chanting of the divine praises; avoiding all that is forbidden, and doing all that is commanded, so that the praise offered to God may be pleasing and acceptable, and may stir up devotion in those who hear it, and be salutary to themselves: declaring that all the aforementioned things established in the synod are to remain in full force and effect, and, as far as necessary, we renew them.

"12° That silence be maintained by the Capitulars and the Chancellor concerning all that is treated and resolved in the Chapter; and that, lest it be revealed by others, we command that, in the future, witnesses be not used in publishing the resolutions made by the Chapter, but that they be merely signed by the President of the Chapter and the Chancellor.

"13° That the statutes be presented, and because they are very old and are almost unknown, we command that, within three months, they be revised and, after being revised and approved by Us, be observed.

"14° That no documents, writings, or books be taken from the archive without the permission of the Chapter, and that care be always taken that the document or book taken be noted by the hand and signature of the recipient in a book specially established for this purpose, and that, in cases of urgent necessity, the Canon Massarius may take books and writings, after the aforementioned notations have been made.

[*Latin ed. p. 664*]

664 OF ECCLESIASTICAL DECREES: "15° That a register be kept in

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which, under the date on which pious legacies are fulfilled, whether pertaining to "the Chapter itself or to other works administered by it, a note be made by him to whom each legacy pertains regarding its fulfillment; and that another register be kept, in which, in the same manner, those to whom the obligation lies, at the end "of at least each year, note that they have fulfilled the obligations of Masses and other things to which they are bound by reason of Benefice, Chapel, or other title.

"16° That within a month, inventories be made of all movable goods found within the Chapter, as well as of the Sacred Relics, of which a list will be given to Us; and, if possible, an inventory be drawn up of all documents, books, and other items found in the Archive, so that, through this oversight, nothing may be stolen or lost without being noticed.

"17° That the Canon, Sacristan, diligently oversee the Curates, to whom the care of souls has been entrusted by the Chapter itself, so that they may faithfully and diligently fulfill their duties, that they may carefully guard the parish books and record the proceedings, and that, obeying his commands in all things, they may not absent themselves without his permission, which he will grant only for just reasons and without prejudice to their service.

"18° That on feast days and other days on which there is a gathering of the people in the Church, Masses be arranged for the convenience of the people; that only one Mass be celebrated at the same time; and that the Canon, Sacristan, prepare a schedule for at least those hours in which there is the greatest gathering, and in which Masses are most frequently lacking.

"19° That, when many are invited to the association for the souls of the faithful, the clergy devoted to the service of the Cathedral Church be, as far as possible, given preference.

"20° That the Most Holy Eucharist be kept only in the sacristy designated for that purpose, and never, even for a short time, in other altars, no matter how large; and therefore, it will be consecrated only for the procession to be held after Mass: and whenever it occurs that it is exposed in any altar, We command that, before the exposition, it be carried to that altar with due reverence, and immediately after the blessing, it be returned to the aforementioned sacristy; that the corporal, placed upon the altar of this sacristy, be kept folded in a case, to be unfolded whenever it is needed; that the particles that are consecrated be whole, recently made, and purged of fragments, and without any..."

[*Latin ed. p. 665*]

AND OF THE BURDENS OF REFORM 665 "The complete renewal of the Most Holy Eucharist shall be prolonged beyond twelve days." "21° In the chapel, commonly called the Sepulcher, only the chalice with the host to be consumed on Holy Saturday shall be kept; no pyx with consecrated

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hosts, truly." "22° The Forty Hours exposition, according to the decree of our predecessor, Father Francis Agnini, shall be held near the main altar, and care shall be taken to ensure that some are always present for adoration; and during this exposition, no funeral office shall be celebrated." "23° With greater diligence and as much as possible, the cleanliness and decor of the altar and all other places belonging to the Chapter, or entrusted to the care of the Curators or Clergy in Caltanisetta, shall be promoted; the sacred vestments and other things pertaining to the sacrifice of the Mass or to divine worship shall be frequently and often inspected by those to whom they belong, and, as far as necessary, repaired, renewed, and cleansed, as befits the splendor and dignity of the cathedral church itself." "24° Finally, he ordered that the keys of the sanctuary and of other sacred places, in which precious objects and relics are kept, and those pertaining to the Reverend Chapter, shall be perpetually held by the canonical sacristan, and must be held by him, nor shall they be given to anyone else, even for a short time, unless it is the canonical." The Bishop communicated these decrees to the Chapter, threatening to remove from the ranks of the Canons those who refused to observe the fifth decree. However, the Canons refused these measures as infringing upon their rights. Consequently, two were chosen to defend the Chapter in writing, and their objections were presented at the Chapter meetings on November 4, 1868, and were offered to the Bishop himself. The Bishop sent to the Sacred Congregation both his decrees and the Chapter's defense, requesting that it declare whether he could and should retract from the decrees he had issued. After receiving the Bishop's letter, a decree was issued: "Let it be placed on file," and then the Bishop was informed that the matter would be discussed in a plenary session of the Sacred Congregation, and therefore, both he and the Chapter were free to present other arguments within thirty days. The Bishop vigorously defended his course of action based on this decree; however, the Canons were unwilling to further defend their rights. Indeed,

[*Latin ed. p. 666*]

666 OF THE EPISCOPAL DECREES, five of them had already been disapproved, having been written by the Deputies in defense of the Chapter and against the Bishop's Decrees, and approved by the Canons in the chapter meeting. But shortly thereafter, all the Canons presented a humble petition to the Most Holy Father, requesting: "1° That they themselves should no longer be obligated to celebrate Masses on weekdays, on vigils, and on the four seasons, while the obligation remains to celebrate and apply daily, for the benefit of the benefactors in general, the Conventual Mass, which is joined with the Office. 2° That if, at any time, a Christian should be obligated or devoted to sing a particular solemn Mass with a specific application, which is joined with the Office of the day, that same Mass, celebrated at the hour prescribed by the rubric, should suffice to fulfill

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the choral obligation; but that the Canon of the turn should nevertheless remain obligated to privately apply a Mass for the benefit of the benefactors in general, as is customary from the Decree of the Holy Congregation on the occasion of a Pontifical Mass."

Upon receiving this second petition and the Bishop's careful inquiry, a double question was proposed under the form of doubts, which are set forth at the end.

o SYNOPTIC DISCUSSION.

RIGHTS OF THE CANONS. Regarding the first doubt, the Canons divided all the Bishop's Decrees into four classes: 1° those that were contrary to the privileges and reasonable customs of the Chapter; 2° those that were useless; 3° those that did not affect the Chapter at all; 4° and finally, those that concerned the specific affairs of one Chapter.

To the first and most important class, they referred the Decrees numbered 2, 5, 6, 7, 12, 22, regarding which they raised these two questions: whether the customs of the Chapter should be observed as reasonable; whether the Bishop can abolish them without the consent of the Chapter; and whether the Canon who does not observe them incurs the stain of perjury.

Regarding the first question, given the definition of custom from Canon Law, Dist. 1, where it is read: "Custom is a certain law established by mores, which is accepted as law when the law is lacking," they stated that a custom, which is not contrary to divine law, or to natural law, or to revealed law, nor does it cause scandal, or oc-

[*Latin ed. p. 667*]

And the burden of REDUCTIONIS 667, concerning the possibility of a dispensation from sins, seemed reasonable; therefore, it was possible to induce a contravention of human law, and that a custom, if legitimately prescribed, could be abrogated after a period of forty years, as the Authors generally teach. But they asserted that there were customs which the Bishops opposed: namely, the custom of chanting the Third Hour while the Bishop was preparing for the pontifical offices; the custom of exempting the sacramental confessions of the faithful, or of celebrating Mass as many times as the Divine Office was completed, so that they would not be subject to penance; and the custom of the Canons refusing to celebrate Mass on Feria or Vigilia in the choir at the canonical hours. And these same customs, since they could not be said to be unreasonable, the Canons maintained were legitimately prescribed, and had been observed for almost sixty years, before the Bishops. Indeed, they urged, and at least remained silent, regarding the custom of reciting Mass on Vigilia or Feria in the choir at the canonical hours, which was contrary to the Indult granted

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by Pius VII on December 9, 1809, by which the Canons were exempted from chanting those Masses; and that this Indult had not been useful, since those Masses should have been read at the time when the canonical hours were not recited; and that no one should doubt that reasonable customs, legitimately prescribed, have the force of a privilege; and that, especially the last one, had been fulfilled by the action itself, since it could fulfill a double precept, according to what the Theologians teach. Approaching the matter more closely, the Canons rejected *sextum*, as it was contrary to the custom, according to which those who ministered to the Word of God during Advent and Quadragesima could be absent from residence, and they seized upon Decretum Septimum, as if it were against a diocesan synod; Decretum Duodecimum, which concerned admitting or rejecting witnesses, while they themselves requested the performance of forty hours of prayer by the people on the feast of all the Saints: which, however, could be said to be an unreasonable custom, since the exposition of the Sacrament was made on a side altar. Regarding the second incidental question, they inquired whether the Chapter was the Senate of the Bishop, who could accomplish more.

[*Latin ed. p. 668*]

668 DECREES OF BISHOPS could not be issued without the consent of the Chapter thereof, Cap. 5, Concerning those things done by Prelates, etc., where it is read that Alexander III wrote: "We command to your fraternity that you require your brothers in matters of concessions and confirmations and other affairs of your church, and that you carry out and treat with them, or with the wiser part thereof, and that you establish what is to be established, and correct errors, and destroy and uproot what is to be destroyed." Such consent is especially required in those matters which concern the detriment of the cathedral church, cap. 17 concerning major and ordinary matters, and in those matters which pertain to the celebration of the divine offices in the cathedral, according to the disposition of the Council of Trent, session 24, de Ref., c. 12, where it is stated: "Furthermore, concerning what pertains to the proper regulation of the divine offices, and concerning the appropriate manner of singing or chanting in these matters, concerning the certain law for convening and remaining in the choir, and concerning all the ministers of the church, what is necessary, and if any such things, the provincial synod shall prescribe a certain formula for each province, for its benefit and morals. Meanwhile, the Bishop, as well as with two Canons, one chosen by the Bishop, the other by the Chapter, may provide for those things which seem to require it." And the same consent is required in those matters which concern the interests of the Chapter, Barbosa de Canonicis, c. 42, n. 14, so that without such consent, Decrees are invalid. Since the customs of which we are speaking are reasonable and legitimately prescribed, and since the Bishop cannot abolish

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them without the consent of the Chapter, it was concluded that he who disregarded these customs was to be considered to be in error. For Canons, upon acquiring their position, promise by oath to preserve the privileges, customs, and rights of the Chapter. Passing to the second class of Decrees, they rejected as useless those items numbered 1, 3, 4, 8, 9, 10, which had never been handled otherwise than as prescribed in them: specifically, they noted concerning the first Decree, that a Canon from Tournon, if he were to chant a Mass for the sake of some legate or for a special benefactor, would apply the Mass privately for the benefit of the benefactors in general; and by the eighth Decree, the Bishop commanding such processions, which were foreign to the Chapter, would impose new burdens upon the Chapter. After mentioning several other things concerning the remaining classes of Decrees, they concluded that the imposed suspension was to be declared null and void.

[*Latin ed. p. 669*]

AND OF THE BURDENS OF REDRESSAL 669 •because, firstly, if any Canon would fail to observe the Fifth Decree of the Council of Bishops in the matter at hand, he would incur no guilt; and secondly, because such a suspension would have been imposed by the Bishop in his own cause and during a pending dispute. From all these things, the Canons jointly professed that they held their Bishop in esteem, and that they would not bring these matters forth without sorrow, in order to fulfill their oath. THE RIGHTS OF THE BISHOP. The Bishop, following the same order of exposition, began to refute, with a calm spirit, those things which had been opposed by the Canons. He observed, therefore, at the beginning, that it was also unreasonable to say that a custom, having been condemned by Canon Law, was not to be observed: a criterion which the Canons had omitted for discerning unreasonable customs, concerning which one may consult Ferraris, Bibliotheca Canonica, vol. 1, custom number 16. For customs contrary to the rubrics are to be condemned by Canon Law. And they are also to be condemned in a diocesan synod; for in it, it is prescribed: "The Pontificale, Missale, Breviarium, Ceremoniale, and Rituale, having been revised by Clement VIII and Paul V, we command that they be observed, with the abuses and incongruous customs that may have crept in in some church." Indeed, the Council of Rome, held in the year 1725 under Benedict XIII, in chapter 1, title 15, expressly decreed: "We strictly command the Bishops that, if they should find that anything contrary to the prescriptions of the Roman Pontificale and Ceremoniale Episcoporum, or to the rubrics of the Missale, Breviarium, and Rituale, has occurred in churches, whether secular or regular (except for those who use a Pontificale, Missale, Breviarium, or Rituale approved by the Holy See), they condemn such things as abuses and corruptions, and strive to remove them entirely; whatever appellation or memorable custom may be alleged to the contrary, for what

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is done is to be considered, not what ought to be done." Also, in chapter 4, title 2, concerning the custom of not singing the Third Hour when the Bishop performs pontifical functions, it is to be eliminated, both from the authority of the Ceremoniale Episcoporum, book 2, chapter 8, and from the authority of the Sacred Congregation of the Council, which, responding on October 10, 1824, to certain requests made by the Bishop at that time, wrote: "It will be proper for the Canons of the cathedral church to do so (to sing the Third Hour)."

[*Latin ed. p. 670*]

670 Regarding Episcopal Decrees (concerning the tiara): By your authority, you are to compel [the clergy] to observe these matters whenever pontifical functions are celebrated by you. However, if the Congregation of Rites tolerates or maintains certain practices contrary to the established liturgical customs, this occurs only when those customs are reasonable, with all their requirements duly approved, and are of long standing, so that nothing contrary to them has ever been heard; in such cases, they introduce a characteristic of privilege: but in this matter, these two [principles] are entirely lacking. The Indult concerning the Misses of Vigils and Weekdays that are not to be sung exempted the Canons "from the singing... under the same firm obligation to celebrate those Masses read aloud and to participate in them accordingly": but this could not be extended to the meaning that the Canons intended. And on this matter, a Decree of the Holy Roman Church exists: when a doubt was raised, "Whether it can be tolerated to have the custom of reading aloud the 'conventual' Mass on a Feria or Vigil while the hour of Prime is being said in the choir; or at least whether it can be read aloud after Non, provided that those who are assigned to the service of the clergy are present": on September 27, 1817, the response was: "No, and the rubrics are to be observed," a Decree which Gardellinus declares in his annotations. However, if two precepts can be fulfilled simultaneously, this occurs only when the actions are compatible with each other, and the Church has not prescribed that they be performed at different times. Regarding the Decree of Sestri Ponente, which prohibits the Canons from being absent without the permission of the Ordinary during the seasons of Lent, Advent, and the more solemn festivals of the year, this is in conformity with the law and the Resolutions of the Sacred Congregation of Clergy, as is stated in the learned Instruction 107, n. 34, of the Archbishop Lambertini, later confirmed by Benedict XIV, and which the Sacred Congregation of Clergy has affirmed several times, specifically in the document "Castri Maris, Servitii Chori," of March 4, 1737. Concerning the seventh Decree, which prohibits the Canons from celebrating Mass or hearing sacramental Confessions during the time of Divine Office, unless there is necessity, the Bishop noted that this also conforms to the law and the diocesan synod, which allows only two Canons to celebrate Mass at

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that time, with the permission of the Bishop if present, otherwise with the permission of the Prefect of the choir. Nor does the contrary custom have validity, as stated in Passerin, I, 3, de Clericis non resid., cap. Consuetudo, reg. 10, no. 163. Also, in the S. Carol. Borromaeum, in the 4 Councils, prov. Mediol., cap. 13, it does not deviate from the norm, as the Sacred Congregation of Clergy stated in Interamnen, February 23, 1771.

[*Latin ed. p. 671*]

AND REGARDING THE ALLEGED BURDENS 671 Concerning the twelfth decree, it was argued that the Canons could not be compelled to act against their own established practice, when this matter could have been investigated during the Visitation. Regarding the twenty-second decree, the Bishop stated that he had reaffirmed a certain decree issued on January 24, 1849, by the Bishop of that time, which established that the exposition for the Forty Hours of Prayer should be held without any exception on the main altar; and for this reason, while that Bishop was alive, the aforementioned exposition was transferred to Sunday, which follows. He further stated that he had decreed that no funeral office should be celebrated while the Most Holy Sacrament was exposed; and that he could decree this from chapter 8 of session 21 of the Council of Trent. Whatever might be said to the contrary from the Instruction of Clement XI concerning the Forty Hours of Prayer, it does not extend its force beyond the City, as stated in the decree of the Holy Roman Church in Padua on July 12, 1749: "The aforementioned Instruction does not obligate outside the City; however, those who conform to it are to be commended, unless something else has been established by the Ordinaries of the place." The Bishop then proceeded to other objections, noting that he could not abolish capitular customs without the consent of the Chapter, and observed that the matter at hand did not concern legal customs, but rather abuses contrary to existing laws, which had gradually crept in to the detriment of the divine cult. Moreover, if the Council of Trent, in session 24, chapter 12 concerning Reform, had ordered that, in the meantime, the discipline of the divine offices should be observed by two Canons until the same discipline was established in the provincial councils, that decree could scarcely be invoked today, since the discipline concerning the divine offices has already been determined, established by the aforementioned councils, pontifical constitutions, and decrees of the Holy Congregations. Since, therefore, the matter concerned abuses, and not commendable customs, there is a very great danger if the Canons do not observe their own customs, which they call "customs." Furthermore, the Bishop proceeded in the same manner with the objections raised against him, which, being of lesser importance, we omit. Regarding the conventual Mass, which is to be said privately when another Mass is to be said and applied in its place, the Bishop showed that this is contrary to the Constitution of Benedict

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XIV, *Cum semper*.

[*Latin ed. p. 672*]

672 Regarding the decrees of the episcopal vicars, as well as those of the diocesan synod, and furthermore, the resolutions of the Most Holy General Council*, as in Ventimiglia, on December 20, 1851. Concerning the processions of which the eighth decree speaks, by which canons who did not participate in the processions of the Most Holy Blood and Body of Christ were penalized, it is noted that these are the most solemn processions and are fitting for the entire secular and regular clergy; and therefore, the penalty was imposed as in other processions (which the Bishop had previously proposed to these same canons, to which they opposed), so that scandals might be avoided due to the absence of some canons. After these and other matters of lesser importance, the Bishop noted that suspension was legally prescribed for those canons who "attempted to transgress" the fifth decree; concerning which matter, Moncelli in the *Formulary*, part 3, title 2, form 7, number 23, wrote: "Those who recite and perform the divine offices irreverently and in an unseemly manner, after having been warned even by an edict, and who do not amend, are, without permission, to be suspended entirely from the divine offices, or from the celebration of Mass alone, or from entering the church, at the discretion of the Bishop, as the *Glossa* says in Clementine, *Cupientes* verb. Suspended *de poen.*, because the decree of the Lateran Council, which absolutely "prescribes that the sacred rites be celebrated diligently and devoutly," is sanctioned: "We strictly command, in virtue of obedience, that the divine office, both nocturnal and diurnal, be diligently and devoutly celebrated: and therefore, he who does not obey the sacred canons is not worthy to stand at the altars, as says D. Gregory in c. *hac consona* 25, question 1: and this must be done even without a process, and solely based on informed conscience, according to the manner described above, etc." Also, St. Charles Borromeo, I, 2, decree 4. Nor can recourse to the Holy See or an objection based on the suspicion of the judge excuse this offense; for it is known that decrees issued by the Bishop during a Holy Visitation do not admit of an appeal that suspends the sentence, but only an appeal that defers the judgment, as stated in Benedict XIV, Constitution *Ad militantis Ecclesiae*, §§ 21 and 31. Furthermore, the Holy Congregation of the Council declared on April 5, 1612, that the Bishop cannot declare the judge in a Holy Visitation to be suspected. From all of this, the Bishop concluded that the actions he had taken proceeded according to the law, and that the canons considered themselves to be unjustly harmed.

REGARDING THE RIGHTS OF CANONS, WITH REGARD TO THE

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SECOND DOUBT. Regarding the second.

[*Latin ed. p. 673*]

AND 'REGARDING THE ALLEVIATION OF BURDENS 673, the matter under consideration is a doubt concerning the granting of grace, which the Canons requested in addition to other prayers; specifically, regarding the exemption from celebrating Masses on weekdays or vigils, and also regarding the faculty of privately celebrating a conventual Mass in certain cases; the Canons adduced as reasons the diminution of revenues, which had been reduced to half after the civil government had attached their assets to the public treasury; the number of Canons had been reduced to twelve, whereas previously there had been fourteen; indeed, not counting those with indulgences, only nine were present to serve in the choir. Furthermore, they testified, although they did not prove it, that Masses on vigils and weekdays had not been celebrated by that Chapter in ancient times, and that this obligation began in the year 1633 by a special decree of the Bishop; indeed, after that time, it was not known whether Masses on weekdays had been celebrated during Lent; and in the books in which Masses on weekdays are recorded, no trace of such celebrations could be found. The Bishop, not opposing the prayers of the Canons, nevertheless noted that the annual revenues for each Canon amounted to 500 florins; and he did not consider it a grave burden to celebrate Masses on weekdays and vigils, in addition to the one celebrated on a feast day, on certain days of the year.

WHAT ARE IN GENERAL OPPOSED TO THIS. In general, the decree of Honorius III in chapter "Cum creatura," concerning the celebration of Masses, is recalled, in which it is stated: "We command that none of you should allow negligence to prevent you from celebrating conventually the solemnities of Masses, both for the anniversaries of the dead and for feasts or weekdays, according to the appropriateness of the time." This text, which has been interpreted in various ways by ancient jurists, was interpreted by Fagnanus, who refers it to the rubrics of the Missal; Fagnanus in chapter "Cum creatura," number 22 and following. Indeed, later, Benedict XIV in the Constitution "Cum semper oblatas," reiterated this: "Not only is it prescribed for patriarchal, metropolitan, cathedral, and collegiate churches that a conventual Mass be sung daily in them, but also in the general rubrics, the strictest observance of which we commend to your fraternities, it is prescribed that on certain days not one, but two, and sometimes even three, conventual Masses be celebrated on the same day." Acts, volume V, page LXII, 43.

[*Latin ed. p. 674*]

674 OF EPISCOPAL DECREES. These Decrees concerning Sacred Rites, at that time, admitted of a limitation, when it was clear from the law of foundation concerning the quality of the service of the Church and the

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number of Masses, as Monacell states in *Form. supplem ad t. 1, n. 234*. Furthermore, concerning the Canons, regarding the second request, that on days when, either through a pious endowment or through the will of a special benefactor, they were to celebrate Mass with singing, it was permissible for them to consider this same Mass as the Conventual Mass, with the celebration and application of the Conventual Mass being remitted, and the Canon from Tournon to privately celebrate: for it has been noted in several Decrees of the Sacred Congregation that the Conventual Mass must be celebrated daily in the choir, unless the inadequacy of revenues prevented it. Moreover, it was observed concerning the Canons that, if they bore the burden of another Mass on several occasions, they should also receive the emolument of that same burden. Nevertheless, with regard to the Canons, it was noted that *Constitution Cum semper oblatas*, § 18, should be considered in the case of inadequacy of revenues; and if these were such that, after deducting the alms for the Conventual Mass, they would be insufficient, with detriment to divine worship; and conversely, if there were not sufficient means to increase the revenues of the Prebends, according to the disposition of the Council of Trent, Session 24, Chapter 15; then it remained to appeal to the Sacred Congregation, so that the Conventual Mass might be reduced to feast days only; and this was consistent with the practice of the Sacred Congregation. Therefore, when the matter was being considered concerning Canons whose revenues were reduced to almost half, and when the condition of the present civil society was added, by which the prices of things have greatly increased, it seemed just that the burdens of some of the Conventual Masses should also be reduced in some way. Considering these and other things, the following questions were to be resolved: I. "Do the Decrees of the Bishop, issued during the sacred Visitation, apply in this case?" II. "Should the requests of the Canons be granted in this case, and if so, in what manner?"

RESOLUTION. The Sacred Congregation, having knowledge of the matter, on July 9, 1870, decided to respond as follows: To I. Affirmative.

[*Latin ed. p. 675*]

AND REGARDING THE REMOVAL OF BURDENS 675 i Ad II. Negative concerning the first proposition; affirmative concerning the second, provided that this Mass be celebrated in the Cathedral, for a period of ten years, with the consent of the Most Reverend [Bishop]. FROM WHICH, AMONG OTHER THINGS, ONE MAY GATHER: I. Generally, customs which are contrary to the prescriptions of the Rubrics are easily classified among abuses. II. The more easily such contrary and diverse practices can flourish against the uniform and universal discipline, the more easily they are classified as abuses (1). III. Similar things can be said regarding those matters which concern the universal laws that regulate the service of the choir and determine the obligations of the Canons. IV. Hence, practices

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contrary to the universal laws, whether concerning residence or the due presence during the performance of divine services, if brought to judgment, are at least difficult to maintain (2). V. It is solely the prerogative of the Bishop, without the consent or counsel of the Chapter, to prudently correct abuses that have arisen over time, so that the Rubrics and the sacred canons may be restored to observance, and even to impose penalties on those canons who resist. VI. Furthermore, it is also within the power of the Bishop to compel all the clergy to participate in the more solemn processions (3). (1) The external splendor and dignity of the sacred rites in the Latin Church consist to a great extent in the conformity of observance; for it is easy to devise rites that may seem even better and more noble than those prescribed in the Rubrics; but if the conformity of observance is removed, that external splendor will cease, deriving as it does, in the highest degree, from universal conformity. Hence, sanctions are established to prohibit customs contrary to this. However, this general concept of things does not prevent reasonable contrary customs from being given, but it ensures that such customs are not considered reasonable unless there are serious reasons that demonstrate the reasonableness of the same. Cf. what I noted in Vol. III, page 236. ß) Compare the reason that I have explained in Vol. I, page 65. (3) Compare the reason in this volume, page 413, and following. Regarding Masses for the Dead, see what I have explained in Vol. I, page 42, and following.

[*Latin ed. p. 676*]

DECLARATION OF THE DECREE, July 9, 1870. Summary of the Case. For a fuller understanding of this matter, it is necessary to recall the case which we presented in Volume IV, page 81, under the title "Administration of the Sacraments and Funerals." In that case, a question arose concerning a custom gaining ground in Gallia regarding the rights of the Chapter, the titular and honorary Canons, and the obligation to provide the last offices of piety to them, even to the detriment of the rights of the Parish Priest. The following questions were proposed: I. "To whom does the right belong to administer the last Sacraments to titular and honorary Canons in the parish (B), if they reside there?" II. "To whom does the right belong to remove the body of a Canon residing in the parish (B), and to carry it to the cathedral church, and from there to the public cemetery, in the case where the Chapter favors this?" III. "Can the Parish Priest (B) participate in the funerals of Canons who die in that parish, wearing his stole and cope, in the aforementioned case?"

The Holy Congregation, having considered the custom concerning the titular Canons, responded on February 16, 1867: To I. Affirmative, favoring the Chapter with regard to the titular Canons; concerning the honorary Canons, evidence is needed. To II. Affirmative in all respects, favoring the Chapter as in the first case. To III. Negative.

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Following such a resolution, and with the accumulation of new evidence concerning the honorary Canons, the case was presented again on May 29, 1869, under the same questioning formulas. The Holy Congregation responded: To I and II. Affirmative, concerning only those honorary Canons who reside in the episcopal city and attend the choir. To III. Negative, concerning the Canons included in the aforementioned resolutions.

Today, the case has been presented again because of certain doubts raised by the Parish Priest, particularly concerning the interpretation of these Decrees, namely, whether the words "in the parish (B) residing" in the questioning formulas should be understood to mean that the right of the Chapter is denied.

[*Latin ed. p. 677*]

DECLARATIONIS RESCRIPTI 677, in favor of the titular Canons, who resided in another parish within the same episcopal city: and whether the words added in the Resolution, concerning those who frequent the choir, should be understood to pertain only to honorary Canons who participate daily in the choir's services, and not to those who only attend on Sundays and feast days. Asked for his opinion, the Bishop, recalling, among other things, the custom that did not distinguish between parishes, noted that when the controversy first arose, all the Canons resided in the aforementioned parish (B); but recently, after the parish was divided, some Canons had moved out of the territory of parish B. Then, opening his mind, he proceeded as follows: "In my opinion, this change of residence does not in the least invalidate the rights of the Chapter. Therefore, I believe that the aforementioned doubts can be resolved as follows: 1° The Chapter has the right to provide the ultimate services of piety to the titular Canons, wherever they may reside in the city; but to the honorary Canons, who reside in the episcopal city and frequent the choir. 2° The words, 'those who frequent the choir,' should not be understood to refer to the daily attendance of honorary Canons at the choir's services, but only to their attendance at the conventual Mass and Vespers on Sundays and feast days, so that nothing else would seem to be required of them. However, I did not wish to impose this interpretation of the words of the Holy Congregation on the Chapter and the Parish Priest. I referred them to the aforementioned Congregation, to whom it belongs to explain the meaning of its decision."

OBSERVATIONS. He who defended the rights of the Chapter, regarding the first doubt, noted that if an interpretation favorable to the Parish Priest were to be given, it would lead to an absurdity, since it would be much better for the honorary Canons than for the titular Canons, as the former would include all those who resided in any part of the city; while the latter would be limited to those who resided only in parish B. And if, in other parishes, there was no doubt about this, it would happen that the Parish Priests would not contradict the custom. Regarding the second doubt, it

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was noted that it was customary in that city for the honorary Canons to attend the conventual Mass only on Sundays and feast days, along with the titular Canons.

[*Latin ed. p. 678*]

678. The transcript of the Declaration, read aloud during Vespers, which also signifies what has been understood in another cause: therefore, the Sacred Congregation understood that the honorary Canons were to frequently attend the choir, those who attended the choir on those days. Doubts. I. "According to the intention of this Sacred Congregation, are titular Canons (in the city of N) to perform the last offices of piety for the sick or deceased in any parish, as has already been granted to honorary Canons in a certain case?" II. "Are honorary Canons, who customarily attend the conventual Mass and Vespers on Sundays and weekdays by order of the Chapter, to be considered, according to the intention of this Sacred Congregation, as frequently attending the choir, so that in such a case, the Chapter may have the right to perform the last offices of piety for them?" Resolution. The Sacred Congregation, having considered the matter, decided on July 9, 1870, to respond: To I and II: Affirmative, according to the opinion of the Bishop, and furthermore. From which we gather: I. Resolutions of the Holy Congregations, which do not express doctrinal principles, are not to be understood in an abstract manner, but must be understood in the way that the specific circumstances indicate they are to be understood. II. Why it is so easy for all to err, who, having presented the literal words of a certain Resolution, strive to understand and apply it without considering the specific circumstances to which it refers.

[*Latin ed. p. 679*]

REPARATION OF A PAROCHIAL CHURCH. July 9, 1870. Summary of the Case. In the City N, formerly, besides the collegiate church, there existed two parishes, the first under the invocation of St. Andrew, and the second under the invocation of St. Stephen, which parish is under the patronage of a most noble family. The first parish was formerly suppressed, and its goods, along with its title, were united to the parish of St. Stephen, of whose church the present matter is concerned. Therefore, the church of St. Stephen currently enjoys a prebend for the parish priest and three other choral benefices, each of which is held by its own beneficiary. This church, whether due to old age or negligence, was so dilapidated and falling into ruin that, according to the judgment of experts, it appeared to require a very urgent repair. However, while the parish priest and the patron were disputing as to which of them should bear the burden of repairing the church, and no means of reconciliation could be found, the parish priest finally presented a petition to the Sacred Congregation,

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so that the controversy might be settled legally. Upon being consulted, the Bishop stated, among other things, that the expenses for repairing the church would amount to approximately 185 scudi, and that he was unwilling to open his treasury; although he indicated that 100 scudi would not be sufficient for a proper portion for the parish priest. Synopsis of the Dispute. RIGHTS OF THE PARISH PRIEST. The parish priest, in order to avoid bearing the burden of the repairs, invoked, in the first place, the Tridentine decree, chapter 7, session 21, concerning benefices, which states: "Parochial churches, even if they are under patronage, are to be repaired and restored by the Bishops from the fruits and revenues of whatever kind that pertain to those same churches. If these are not sufficient, then all patrons and others who receive any fruits derived from said churches, or, in their absence, the parishioners, shall be compelled by all suitable means to contribute to the aforementioned repairs, by whatever means are appropriate."

[*Latin ed. p. 680*]

680 "CONCERNING THE REPAIR OF A PAROCHIAL CHURCH, WITH THE REMOVAL OF OBSTACLES AND OBJECTIONS." With this arrangement established, it was argued that repairs to the church building should be made either from the revenues of the church, or from the expenses of the Parish Priest, or from the expenses of the Patron; but that neither the revenues of the church, nor the expenses of the Parish Priest, could suffice; therefore, only the expenses of the Patron could be used. It was therefore stated that there were no revenues of the church available for repairing the building; although the Patron testified that the church had received a substantial endowment in the year 1593, sufficient for the repairs of the church; nevertheless, there remained no trace of this endowment in the present time. Thus, the Parish Priest was excluded from the obligation of repairing the church; and he endeavored to demonstrate this by the following reasoning. Is it the case that a Parish Priest, diligently performing his sacred ministry, is owed a suitable sustenance? For to him who sows spiritual things, temporal things are due; the laborer is worthy of his reward; no one goes to war at his own expense, and similar considerations, Council of Trent, Session 21, Chapter 4, on Reforms, Decree of Pius V, "Ad exequendum." Although a suitable sustenance is, in some way, determined in the aforementioned Constitution of St. Pius V, at one hundred scudi, it cannot be considered a fixed rule; rather, it must be determined by considering the circumstances of the place, the quantity of the fruits, the nature of the burdens, and the condition of the person; and therefore, it must be left to the prudent judgment of a Judge, as stated in the Holy Rota, Decree 392, paragraph 12, part 1, and Decree 395, paragraph 1, recent. Furthermore, in determining the suitable portion for Parish Priests, it is indeed possible for the Bishop to consider and include uncertain

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revenues, as stated in the aforementioned Constitution of St. Pius V; but it must be understood that these uncertain revenues must have some degree of certainty, such as tithes of grain, wine, oil, etc., as stated in the Holy Rota, page 6, decision 230, paragraph 5; page 13, decision 392, paragraph 9; and not those that are entirely uncertain, such as funerals, offerings from weddings, and the like, as stated in the Holy Rota, page 1, decision 240, paragraph 2; page 6, decision 930, and elsewhere. Moreover, the Parish Priest argued that it was not enough for a suitable portion to be provided; it was also necessary that, in addition to the suitable portion for maintaining a decent livelihood, something remain for him to undertake the burden of repairing the church building, as stated in Chapter 4, on church buildings and their repair: "Alexander III responded, 'Concerning those who have parochial churches, we have decided that they are obligated to contribute to the repair of the churches, when necessary, from the goods that belong to the church itself, if any remain, so that others may be encouraged to do the same.'" On this matter, Barthel, in his notes on Engel, in the title on church buildings, proposed...

[*Latin ed. p. 681*]

Regarding the repair of a parish church, 681, the question arises: are parish priests and rectors of churches absolutely bound by canon law to undertake such repairs? The answer is not absolute, but rather: "If the parish priest has superfluous and very ample revenues, as in Austria, he is certainly bound to repair the church; but in other places, where only a portion commensurate with his care and labors is assigned, he is usually excused from this obligation." Having established these fundamental principles of canon law, the parish priest presented the state of the revenues of his parish, which the Bishop also mentioned in his report: "The parish revenues," the Bishop said, "amount to approximately 400 scudi annually, of which one-third is allocated to three *beneficiati* [beneficiaries], including the parish priest, to assist in the care of souls, to serve in the collegiate church with the choir on feast days, etc. The expenses, common to the parish priest and the choral beneficiaries, may amount to approximately 100 scudi; after deducting these, 300 scudi remain, of which 100 belong to the aforementioned beneficiaries; the remaining 200 scudi belong to the parish priest. To these must be added approximately 30 scudi annually for the vestments of both, so the parish priest's annual income can be calculated at 230 or even 250 scudi. The parish priest's own expenses consist of the annual application of 32 and 80 masses for the people, the provision of wine, bread, and candles for the Masses and other sacred functions, wax to be distributed to the parishioners on the feast of the Purification of the Blessed Virgin, the maintenance of the sacred furnishings, and finally, perhaps 70 scudi for diocesan taxes. Subtracting these expenses from 230 scudi, there remains a sum of at least 160, and perhaps 180, scudi,

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which is appropriate. However, the parish priest added that 30 scudi must be deducted from this sum, representing expenses for vestments that are not included in the proper proportion, as stated above by the authority of the Sacred Roman Rota; therefore, 140 scudi remain. Then, he stated that another 40 scudi must be deducted, since he lacks a parish house and is forced to rent one; with these deductions, barely 100 scudi remain for the proper portion of the parish: and such a sum is scarcely sufficient for honest maintenance, since everything is more expensive in our time; in all of this, the Bishop did not disagree. Therefore, excluding from the temple's revenues those that are lacking, as well as the expenses of the parish priest, only one thing remains:

[*Latin ed. p. 682*]

682. The obligation of repairing a parish church falls upon the Patron, who is burdened with the responsibility of restoring the temple. This is further confirmed by authorities, including Piton, who wrote in his work on patronage, section 43, number 11: "The burden of repair rests with the Patron, because the inconvenience of restoration arises from the very nature of the patronage. The Patron is called 'patron' as if a father, who is obligated to adorn and restore the thing entrusted to him, which he has brought 'from non-being to being.' And in section 28, number 19: 'Therefore, Patrons are held responsible for such repairs, because they receive benefits from the patronage, which consists in the right of presentation [of the pastor] and they have the honors of the first rank in processions and meetings, and they receive sustenance in times of need.' Also, Cardinal De Luca, in his Disputations 52, number 12, and 84, numbers 2 and 3, Lambertini, on patronage, Book 1, article 3, question 1, numbers 5 and 7; and the decree of the Sacred Rota, number 33, before Falconeria: "When a church is poor, it is the responsibility of the Patrons to restore and repair it, due to the reciprocal obligation that exists between the church and the Patrons. For just as the church grants them the honorific right and the right of presenting the Rector, and if it is in a state of poverty, it provides sustenance, so likewise the Patrons are obligated to restore it, if, due to poverty, it cannot do so at its own expense." Finally, by the authority of the Sacred Congregation of the Council, in the case of Ragusae, on August 3, 1669; for after an earthquake, the parochial temple of Umbla, which held the patronage of the metropolitan Chapter, was damaged, and the Sacred Congregation was asked to whom the burden of repairing the temple belonged. The response was that the Chapter should be given a term of six months to rebuild it, or to renounce the right of presenting the pastor. From the foregoing, it seemed clear to the parish priest that the burden of repairing the temple rested with the Patron.

THE RIGHTS OF THE PATRON.

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Conversely, the Patron argued against the argument presented by the parish priest. He recalled that the obligation of repairing parochial temples, in the absence of revenues destined for that purpose, belonged to the parish priest, or the Rector of the church: which is the common opinion of the Doctors, and on this matter, Surdus wrote among others, in his Consilia, 6, number 1, 2, 3: "The Supreme Pontiff Gregory XIII appointed an Apostolic Commissary for the visitation of the churches of Monte Ferrato, who found that many churches were collapsed; therefore, he ordered them to be restored and repaired. It was therefore debated in almost all places, to whom the burden...

[*Latin ed. p. 683*]

REPARATION OF A PAROCHIAL CHURCH 683 "This matter has been brought up, and I have been frequently questioned about it. When speaking of a parochial church, it is stated that 'Bishops and Rectors are bound to repair and restore it,' as is proven from Chapter 1 and the chapter concerning church buildings. This conclusion, that the Rector of a church is bound to restore, repair, and maintain the church, is followed by all; Barbosa on the office and power of the parish priest, part 1, chapter 13, paragraph 12: 'Parish priests must know that they are obliged to repair and restore the church when it is in need, as Alexander III commands in the chapter concerning church buildings.' From these principles, one can conclude that the Rector, or he who benefits from tithes and ecclesiastical revenues, is bound to repair the church (where a certain part or sufficient revenues are lacking). Constantin, Total Decisions, 252, paragraph 34: 'When revenues destined for the purpose of construction are lacking, and unless the church's statutes or customs provide otherwise, the absolute rule is that Rectors and Parish Priests, who benefit from the fruits of the church, are bound, both by reason of spiritual communion and by reason of the acquisition of the fruits, to maintain and repair it.' This obligation does not cease as long as the parochial church remains under patronage. Indeed, besides the fact that there are not lacking Doctors who maintain that the Patron is not bound to do anything, when they believe that what was initially spent was sufficient; it has been shown that the Patron is only bound as a subsidiary; that is, when, after deducting a suitable portion for the Parish Priest, the revenues for repairing the temple are insufficient, Barbosa, loc. cit., paragraph 6; Constantin, loc. cit., where he wrote: 'And although the church is under patronage, the obligation of repairing it always primarily falls upon the Parish Priest, and it is only as a subsidiary and in the case of insufficient parochial revenues that this obligation can be transferred to the Patron.' Similarly, the Holy Rota in Savonen, May 8, 1709, before Scotto; and in Fermo, concerning the restoration of the church, January 13, 1851, before d'Avella: 'The first question to be defined in general is whether Vitus, as Rector of the parochial church, should be subject to the burden of its

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restoration. For he argued with all his might in this judgment that nothing should be provided by him for this reason, but rather that the entire burden belongs to the Patrons. But this is a completely futile effort, since the matter is thoroughly established in law, that parochial churches, if expenses for repairs are required, must be entirely restored by the Rectors or Prefects, along with the..."

[*Latin ed. p. 684*]

684 REGARDING THE REPARATION OF A PAROCHIAL CHURCH: "Those charges or revenues which are collected from goods pertaining to [the church], and the Patrons are not considered subject to this burden, except as a subsidy, that is, when the revenues from the goods are insufficient or lacking." Having stated these principles of law, which are consistent with those adduced by the Parochus, the entire question was reduced to this: whether the Parochus had so many revenues from his parochial benefice, that they would be sufficient for him and would also suffice for the repair of the church. To demonstrate that the Parochus did not have such revenues for the repair of the church, the Patron argued that the Parochus received annually three hundred and sixty scudi; and this was derived from a certain letter dated in the year 1858, concerning the leasing of the parish's goods in order to gradually extinguish a certain debt of the Parochus: in which letter, written in the name of the Parochus, it was expressly stated that three hundred scudi annually, obtained from the proposed leasing of goods, would not be sufficient for the Parochus and his relatives, of whom seven were to be supported at the Parochus' expense, and others were indebted. Nor was an exception to be admitted, that the Parochus was obligated to support his relatives; since mention is made only of a suitable canonical portion for the support of the Parochus; Benedict XIV, Inst., 100, where it is stated that "expenses which are incurred for the support of relatives or for maintaining the condition of one's family are not to be included; but only those which are necessary for the support of the Parochus are to be considered." Therefore, in the aforementioned case of Fermo, before de Avella, it was also found: "That Vitus could exempt himself from the burden of repairing the parish, it was necessary for him to present most clear proofs that, indeed, the fruits of the goods were not sufficient even for his proper sustenance. But, apart from the fact that no serious proof was offered regarding the insufficiency of the revenues, the report of the judicial administrator demonstrated that the total revenues, even after deductions, were estimated at 163 silver scudi annually, without any calculation regarding other commonly known revenues. It is clearly evident from this that the revenues not only did not fail, but rather exceeded the legitimate portion due to the Parochus. For, even if one hundred scudi were to be granted to him for his proper sustenance, there would still remain, and the remaining sum of money,

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which by law must be entirely allocated to the necessary repairs of the church."

[*Latin ed. p. 685*]

REPARATION OF A PAROCHIAL CHURCH 685 In this matter, since the Parish Priest receives annually from the revenues of his benefice 360 scudi, of which 100 scudi are deducted for his canonical portion, there remain 260 scudi to be spent on the repair of the church; furthermore, the condition of the vestments remains uncertain. However, a generous patron, although convinced that he was not obligated to do so, nevertheless, for this occasion only, as an example not to be repeated, remitted to the Parish Priest 95 scudi, which the Parish Priest himself owed to the patron, so that they might be spent on the repair of the church.

FROM MATTERS ADDED BY OFFICE. Having recalled the common belief, which, even among the Gentiles, was guided by nature, namely, that those who neglect temples and do not restore their decor, if they are able and ought to do so, will merit divine vengeance: the following practice was introduced, which prevailed after the Council of Trent among the Sacred Congregations. Pope Benedict XIV, in his *Institutiones ecclesiasticae*, 100, extensively explained this order, according to the aforementioned practice and the teaching of the Canonists: temples are to be restored first from the fruits and revenues of the temple itself, if they are available; secondly, from the expenses of those who are obligated to do so by statutes or custom; if neither a statute nor any custom intervenes, then the Parish Priest is to be held responsible for the fruits that remain to him from his benefice, after deducting what is necessary for his sustenance; afterwards, all those who possess benefices, even simple ones, are to contribute to this; if these are lacking, if patrons are present, they are to be held responsible; finally, if all these are lacking, the people are to provide for it. As for the patrons, it has been noted that they are not precisely, but rather *causally*, as the Canonists say; or not absolutely, but conditionally, as the Scholastics say, namely, if they wish to retain the right of presentation or do not wish to lose the right of patronage. Indeed, besides the Resolution of the Sacred Congregation mentioned above in the case of Bagusa, there are several others, as in Tivoli on December 15, 1827, where, after certain doubts were proposed: "I. Is the patron obligated to restore the parochial church in this case? And, to the extent that it is negative: "II. By whom and in what way should it be restored in this case?" the response was: "To I. Affirmative, with a term of two months given to the patron, either to complete the repairs, or to renounce the right of patronage. To II. In the case of renunciation, those who possess it, even those outside, are to be held responsible by weight and measure." That is, by the *aequa lance*, with the proportion observed,

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in Vico Equense.

[*Latin ed. p. 686*]

686. CONCERNING THE REPAIR OF A PAROCHIAL CHURCH, taxes should be levied on the goods within the parish, as was decreed in Imola on September 4, 1793: the people and property owners within the parish district are to contribute by weight and measure; and similarly, in other cases. DOUBTS. I. "Is the Patron obligated to repair the church in this case?" II. "Whose expense is it, and how should the church be repaired or restored in this case?" RESOLUTION. The Sacred Congregation of the Council decided on July 9, 1870, to respond as follows: To I: Negatively. To II: Affirmatively, from the revenues of the parish, provided that the Patron has proposed it, safeguarding the rights of the Parochian, as is proper and to the extent that it is lawful. FROM WHICH WE GATHER: I. The burden of repairing the parish church, which does not have sufficient revenues for that purpose, initially falls upon the Parish Priest, from the remaining revenues of his parish, after deducting what is necessary for his own support. II. Next, other Beneficiaries who may hold benefices in the same church should contribute. III. If the revenues of all of these are insufficient, the Patrons should contribute, if they are present, who are obligated either to restore and repair the church or to notify the Patron of the right. IV. Finally, if all else fails, the people should contribute, who must be compelled by imposing taxes in proportion to the goods they possess within the parish (1). (1) It may be asked, why the people come last in the order of contributing to the repair of churches, when it would seem that they should come first, since the churches are erected primarily for their benefit. The reason is that the people, or anyone else, have already anticipated the repair of the churches through the established benefices from which the Beneficiaries derive benefit; this is clearer if we consider the ancient discipline of the Church from which such a legal arrangement ultimately derives. For, of all the offerings made by the people at that time and administered by the Bishop, four parts were customarily made, one of which was destined for the fabric of the church, as is stated in the case 12, question 2, in these words: "Ministro..."

[*Latin ed. p. 687*]

REPARATION OF A PAROCHIAL CHURCH 687. In the present matter, it pertains to the Parish Priest to undertake the repair of the church, from the revenues of his parish, which are not considered to be so meager; and if these should prove insufficient, by judgment issued through the Episcopal Curia, they would be supplemented by other Beneficiaries. — OBLIGATIONS OF THE "MOST REVEREND CHURCH." July 9, 1870. Summary. The Supreme Pontiff Urban V (whose cult we mentioned on page 426 and following) while residing in Rome in the year 1869, erected

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an Episcopal Cathedral in the city N, within the pontifical territory, and there established a Cathedral Chapter, which he wished to be composed of two Dignities, namely a Dean and a Sacristan, six Canons, six Chaplains, and four Clerics, of whom one would be a Deacon, another a Subdeacon, and the other two Clerics or Acolytes. Among the duties imposed upon the Sacristan, the following are enumerated: to ring the bells, and also to faithfully and reverently guard the sacred vessels, vestments, books, and other utensils of said church. To the Clerics, however, only this was commanded: to serve in the Divine services of the same church. But with the passage of time, such clerical positions have been given to others who were not ordained in the sacred orders of Subdiaconate or Diaconate, nay, not even initiated with the Holy Tonsure; therefore, (the Bishop) should strive not to diminish, but to increase, the splendor and adornment of the church, or whatever else is in the patrimony of the same. Regarding the revenue of the church, or the offerings of the faithful, he shall divide it into four portions, of which he shall retain one for himself; another he shall distribute to the Clerics for the diligence of their offices; a third he shall reserve for the poor and pilgrims; and the fourth he shall set aside for ecclesiastical buildings. "And he shall render an account of these matters with divine judgment." Therefore, the people, and likewise the Patron, are not to be burdened, except in the case in which the revenues from these Benefices are not sufficient for the repair of the church.

[*Latin ed. p. 688*]

688 It is said that the Church is burdened, because those who were unable to serve the Church in divine matters were assigned to lower and servile tasks. Indeed, disregarding and trampling upon the law of the foundation, these clerical stipends were not considered as benefices, whose primary quality is that they be perpetual, and that they establish a perpetual place for the cleric in the Church; but rather as manual offices, as they say, or mercenary stipends, whose holders were removed at the will and pleasure of the Chapter. The Bishop, in the year 1830, in order to restore the stipends to their original state of foundation, obtained Apostolic Letters from the blessed Pope Pius VIII, and, having obtained them, it is said that he informed the clerics that they should abstain from the lower ministries; which was maintained during the lifetime of that Bishop. After that Bishop died, the Chapter again brought up the matter, on the grounds of custom, in order that these clerics should be compelled to perform all those things which they had performed before. The Vicar General, who also held the first dignity of the Chapter, did not resolve the controversy with a definitive judgment, but extra-judicially wrote that the clerics should continue to perform those lower offices as before; with these letters, it is said, they, with a sorrowful spirit, again subjected themselves to complaints. On the occasion of the last Sacred Visitation, the clerics again raised complaints,

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asking whether the sacristans should be obliged to sweep the temple, to shake out the dust, and to remove the dirt; but the Ordinary, after careful consideration, decided to present the matter to the Sacred Congregation, in order that an end might be put to the complaints. A summary of the discussion. FROM WHAT HAS BEEN POINTED OUT AS BEING INFRINGED BY OFFICE, REGARDING THE CANONICALS. It has been noted that the Canons adhered to a custom, which at least began in the year 1622; and it has been found that this custom has given a worldly title to a better state; but in the matter of the Canons, a custom more extensive than two hundred years has been maintained, and has been confirmed in some way by the Bishops; therefore, it is futile to assign to the sacristans those offices, of which we are speaking (that is, the external cleaning of the dirt in the church, the shaking out of the unhealthy and troublesome dust from the church, the sacred and profane ornaments of the church gradually invading, corroding, and weakening).

[*Latin ed. p. 689*]

689 ON THE WEIGHTY DUTY OF CLEANING THE CHURCH: The clergy cannot invoke the Apostolic Letters of the year 1830, since those Letters merely stipulated that those endowments should be conferred properly and perpetually; not as if they were offices or services, even for those who had not even received the first tonsure. Nor can it be objected that it is unbecoming for the clergy to perform this duty, since it cannot, nor ought it, to be said that what is done for the splendor of God's temple is unbecoming; moreover, it can be done by others. THE RIGHTS OF THE CLERGY. The clergy, on the other hand, argued: the custom of which we are speaking is nothing other than an abuse and the effect of force; and that legal custom cannot arise from actions performed out of fear, reverence, and obedience; therefore, it was introduced because the Chapter did not grant those endowments, which it ought to have granted, and expelled the occupants at its whim: and therefore the custom should be reduced to the judgment of the Chapter, which, trampling upon the law of the foundation, has disposed of the endowments as it pleased. But if one were to say that a legal custom existed, it should be considered abolished by the diocesan synodal laws of the year 1710, which were still in force, in which, under chapter 4 concerning churches, where the cathedral is discussed, it is stated: "The sacristan, to whom we have generally prescribed the duties concerning the cleanliness of the church, must diligently ensure that they are observed by the person who, at his own expense, substitutes himself for him, that is, that nothing is neglected and that the floor is frequently swept." Furthermore, the Apostolic Letters of the year 1830, which restored the original endowments, also restored the duties of the clergy imposed by Urban V, as can be read in those same Letters; not duties imposed by custom. And that after those Letters, in the year 1837, the clergy returned to servile duties,

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occurred in order to free themselves from the annoyances of the Chapter; but they never ceased their complaints. "Is it doubtful whether and to whom the duty of cleaning the cathedral church belongs in this case?" RESOLUTION. The Holy Congregation of the Council, having knowledge of the matter on July 9, 1870, judged that the answer is affirmative to the sacristan. Acts, volume V, page LXIII, 44.

[*Latin ed. p. 690*]

690 CONCERNING THE GRAVE BURDEN IMPOSED UPON THE CHURCH, FROM WHICH YOU SHOULD DRAW CONCLUSIONS: I. It is futile to invoke, as a legal principle, that custom, even if it seems ancient, which, as can be demonstrated, originated from an unjust cause and is perpetually maintained for the same unjust reason. II. For, indeed, if the cause that established the custom was unjust, and if the custom itself is perpetually maintained due to that same injustice, then by that very fact, the force of the custom ceases: for when the cause ceases, the effect ought also to cease. III. Nor can such a custom acquire the force of prescription; since, given the manifest injustice of the cause that governs it, good faith cannot be presumed.

[*Latin ed. p. 691*]

SUMMARY OF THE ACTS CONTAINED IN THIS FIFTH VOLUME: The more solemn acts of the public Roman Pontiff, and matters pertaining to the Church, are included.

5, 22, 526, and 529: Apostolic Letters in the form of a Brief concerning the address given by the Most Holy Father in the Vatican pre-synodal assembly on December 2, 1869.

245: Concerning the persevering schism in the Armenian Patriarchate of Cilicia.

594: Letter to the Archbishop of Westminster, declaring that no place can be given in the ecumenical Council to the patronage of certain innovators.

Multiples Apostolic Letters in the form of a Brief of November 2, 1869, by which the general order to be observed in the Council of the Vatican is established.

249: Explanations of those Letters.

363: Address given on the first public celebration of the Vatican Council, December 1869.

291: Constitution by which the limits of sentences of censure are defined.

305: Another letter concerning the same, addressed to those dissenting from the Catholic faith.

220: Letter to the Abbot of Solesmes, Father Guéranger, in which the principles of that establishment are condemned, and congratulations are offered on a certain polemical book.

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611: Apostolic Letters concerning the election of the Holy Pontiff, rejecting any ecumenical Council.

FROM THE SECRETARY OF BRIEFS:

299: Apostolic Letters in the form of a Brief, concerning the Chaldean Patriarchate of Babylon, in which two vacant sees are filled, according to the norms indicated in the aforementioned Apostolic Letters, in the manner in which the solemnities of secular Princes were observed at that time in Rome.

395: The following are some of the principal chapters of discipline established: certain prayers are added to the recitation of the Rosary.

222: Several Apostolic Letters, by which new indulgences are granted, concerning the election of Bishops in the Council.

Apostolic Letters, by which the Patriarchate of the same Chaldean Babylon is established.

Apostolic Letters given to the Delegate for the suppression of sedition in Armenia, established in the form of a Brief.

Letter to the Armenian monks of Saint Anthony, in which reference is made to a Decree.

402: FROM THE ACTS OF THE VATICAN COUNCIL.

466: Apostolic Brief concerning the Armenian Patriarchate of Constantinople.

637: Intimation made by messengers. Address given by the Most Holy Father in the assembly.

243, 245: Multiple Apostolic Letters in the form of a Brief, by which the general order to be observed in the celebration of the Council is established.

249:

[*Latin ed. p. 692*]

692 SUMMARY OF THE FIRST PUBLIC SESSION. By the ACTORS, the Council for matters pertaining to ecclesiastical discipline. Made public, 260. The order of ceremonies, especially of the Most Holy Roman Church. The names of those... of the Church. 331 It is established that a Council for matters pertaining to the same is appointed. 332 An excerpt from the Council, for the purpose of holding the Council. Included in it is the discourse given by the Reverend Father Passavalli. Method. Concerning the Fourth General Congregation. 263 The notification given to the Actors, in which it is stated that the Congregation is to be considered for matters pertaining to the Orders. 277 Concerning the stenographers of the Council and their duties, and the instruction given by the Most Holy Father in the first session,

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that they should speak aloud. 333 The names of the Regular Fathers who are to be heard concerning matters pertaining to ecclesiastical discipline. Concerning the First General Congregation. 334 Notification of the death of two Cardinals. A warning to the Fathers, indicating that they are to attend the synodal congregations. 295 Notification of the Congregation by the Actors, and a brief prayer offered by the Most Reverend Cardinal Antonino Luca. 297 The names of the Most Eminent Cardinals and Fathers who are established by the Most Holy Lord, for the commencement and conduct of any... ecumenical Council. First of all... 336 The names of those who are established as the Council for matters pertaining to the Orders. 337 Notification of the death of another Bishop, made by the Congregation. 338 Apostolic Letters concerning the election of the Roman Pontiff, who is to be substituted for the first deceased. CONCERNING PROPOSITIONS and other announcements. 296 Notification given by the Congregation of Bishops, and the appointment of a new President. SECOND PUBLIC SESSION. Notification given to the Actors, in which it is stated that the Session is to be held on January 6, 1870, on the feast of the Epiphany, for the profession of the faith. 299 A warning to the Fathers, indicating the rites to be observed in this conciliar action, and indicating what actions are to be performed in conjunction with this action. A warning, in which the Congregation is notified 303 The names of the Fathers who are elected as judges of causes and as judges of complaints and controversies. 304 The formula of faith which the Supreme Pontiff and the other Fathers professed before the Synod. 340 The common ceremonial method to be observed in the sessions of the Holy Council. 343 A Constitution, in which the limits of sentences given by censures are defined. 305 Concerning the other General Congregations. Concerning the Third General Congregation. Notification given to the Actors, in which it is stated that the Congregation is to be considered for the matters that are to be discussed in the subsequent General Congregations, and in certain particulars. 353

[*Latin ed. p. 693*]

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[*Latin ed. p. 694*]

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[*Latin ed. p. 695*]

695 Concerning the affairs of the Archbishop's estate, the will established an Association and provided for funeral expenses, in which the deceased, who held rights concerning the Church, is mentioned. The

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cause for debate is whether a religious building, which is a dwelling, can be considered a domicile in two dioceses, and whether it is legitimately transferred to a buyer. It also concerns the function of the association, the receipt of pensions, and whether those burdened with multiple sources of income are obligated to pay ecclesiastical pensions. 620 Concerning cemeteries, certain rules are established for the use of a newly established cemetery. 647 Concerning parochial jurisdiction and tithes, it is discussed whether a parish is administered by priests who are not distinct from the parish boundaries, but by families. 659 Concerning the origin, extension, or extinction of a particular obligation, by which none were bound, to supplement canonical pensions from the government, which is less burdensome to others of the same church. 185 Concerning solutions, the cause for inquiry is about a peculiar obligation that bound families. EX S. CONGREGATIONE SS. RITUUM. A decree is granted to Latin rite bishops and priests, and to those of their clergy, concerning the sale of a part of a house between two pious places, one of which was lacking in Rome, which was requested. 382 Concerning restitution and profession, or rather, the nullity of a dispensation, it is discussed regarding a Regular who had professed his vows by force and deceit, and the primary cause is debated. 435 Concerning the sale and purchase, it is discussed about the obligation of one who has obtained the right of preference in an auction, or outside of an auction, to fulfill the contract or to render the agreed-upon compensation. 443 Concerning the right to bury, it is debated whether the rights of burial remain, which extend from the Cult of Cornelius to the Holy Calendar of Belgium, under the Julian calendar. 35 The Most Serene Disputation in Belgium, concerning the Virgin whom Saint Julian stipulated, the Queen of Saints, to be celebrated by all. 52 A synoptic cause concerning the same. 55 The Office and Mass of Saint Julian, approved for those saints who celebrate the feast. 65 A decree of the Holy Congregation on the same cause, approved by His Holiness. 66 Concerning the state of processes concerning the Apostle, Saint John the Baptist, from the Exaltation of the Cross to the Conception of the Blessed Virgin, valid by law. 422 Concerning the relationship between two churches of the same diocese, it is discussed in relation to the suppression of certain things, which ceased from the agreements when nothing else was convenient. The Council, the founder of the Treaty, and the Order of Redemption of Saint John. 71 Concerning the faculty of heirs to choose a church for the deceased, and to choose a son who is not of age. A decree is declared that it is established concerning the Beatification of the Venerable Servant of God, Lewis Mary Grignon de Montfort. 583

[*Latin ed. p. 696*]

696 A SUMMARY of his actions, demonstrating his theological and charitable virtues in the heroic degree. 151 APPENDICES. From Saluzzo, or

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[*Latin ed. p. 697*]

INDEX GENERALIS CONCLUSIONUM, QUAE IN PLERISQUE ACTIS IN HOC VOLUMINE CONTENTIS ADNOTATAE SUNT, QUARUM MATERIA IN SINGULIS ACTIS AMPLE EXPOSITA, VEL DECLARATA REPERITUR.

Eae autem conclusiones sub sequentibus verbis comprehenduntur:

Administrator Bonorum (Administrator of Goods).

Auctoritas laica (Secular Authority).

Beneficia iniuria subtracta (Benefits unjustly taken away).

Capellanía laicalis (Lay chaplaincy).

Causae Servorum Dei (Causes of Servants of God).

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Coemeterium publicum (Public cemetery).
Consuetudo quoad chorum (Custom regarding the choir).
Contractus rerum ecclesiae (Contracts of Church property).
Cultus (Worship).
Cultus Sanctorum (Worship of Saints).
Distributiones chorales (Choir distributions).
Divortium (Divorce).
Error personae (Error of person).
Excardinatio (Excommunication).
Festi dies suppressi (Suppressed feast days).
Funerum iura (Rights of funerals).
Immunitas ecclesiastica (Ecclesiastical immunity).
Indultum (Indult).
Investimentum (Investiture).
Irregularis (Irregular).
Iuspatronatus (Patronage).
Lex Episcopalis (Episcopal law).
Lex fundationis (Law of foundation).
Lex quoad cessationem (Law regarding cessation).
Matrimonium (Marriage).
Missa pro populo (Mass for the people).
Missa quoad applicationem (Mass regarding application).
Praecedentia (Precedence).
Parochus quoad imperitiam (Parish priest regarding incompetence).
Parochus quoad privationem (Parish priest regarding deprivation).
Partitio iniusta (Unjust partition).
Patrimonium sacrum (Sacred patrimony).
Pensiones ecclesiasticae (Ecclesiastical pensions).
Privilegia quoad extinctionem (Privileges regarding extinction).
Processus in causis iudicandis (Proceedings in causes to be judged).
Promissio (Promise).
Regulares quoad Beneficia (Regulars regarding benefits).
Regulares quoad funera (Regulars regarding funerals).
Regulares quoad professionem (Regulars regarding profession).
Resolutiones SS. Congregationum (Resolutions of the Holy Congregations).
Sponsalia (Betrothal).
Suspensio a divinis (Suspension from divine offices).

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Templa quoad alienationem (Churches regarding alienation).

Templa quoad reparationem (Churches regarding repair).

Testamentum (Will).

Transactiones (Transactions).

Vicarius Foraneus (Vicarius Foraneus - a type of rural priest).

Administrator bonorum. Auctoritas laica. Administrator bonorum ad piam causam relictorum subesse debet vigilantiae Episcopi, qui ipso iure executor atque vindex est omnium piarum voluntatum, page 210. Negligens vel imperitus administrator, etsi a testatore constitutus, si tamen de eius gravi negligentia et imperitia constiterit, ab Episcopo removeri potest ab administrandi munere, ibidem. Non enim inferior est conditio bonorum, quae sub administratore ad causam piam sint immediate relicta, quam conditio bonorum eius, qui sub curatore sit, ibidem. Ideoque, quae causae rite expellerent curatorem, eaedem expellere possunt administratorem rerum, quae pro pia causa sint destinatae, page 196. Episcopi Decretum, cui forte accedat laica auctoritas naturam suam non immutat, sed manet episcopale Decretum, page 140. Civiles dispositiones, quibus administratio unius eiusdemque civitatis in partes dispescatur, non potest ex sese inducere mutationem in ecclesiastica eiusdem civitatis administratione, neque iura ecclesiarum laedere, page 442. Frustra a S. Sede postulatur, tamquam gratia, id, quod fuerit inconsulto obtentum ab auctoritate civili in re ecclesiastica, page 508. Vix enim audiri a S. Sede merentur, qui ss. canones violantes, apud incompetentem laicam auctoritatem, ecclesiastica iura postulent, sibique vindicent, ibidem.

[*Latin ed. p. 698*]

698 GENERAL INDEX. Benefits unjustly taken away. In the present case in Italy, those who have been deprived of their property have not lost the right of ownership, although they have been violently expelled from possession; nor have they lost the right to receive the fruits derived from that property, although a portion of the income is assigned to someone else by an incompetent authority, page 191. Lay chaplaincy. Nothing prevents lay chaplaincies from being held by "lay people or women, if the founder also called women to hold the chaplaincies; provided that the burdens of the same are borne by another," page 25. Purely lay chaplaincies are not conferred by the Bishop, but he who has the right to possess it takes possession of it by himself, which is usually done with the help of a public Notary: therefore, they are also often called non-collated chaplaincies, ibid. Lay and ecclesiastical chaplaincies, since they differ greatly from each other, produce various legal effects, page 218. Lay chaplaincies are almost entirely governed by the law established by the founder, ibid. The same are also suitable to be held by lay people, if the will of the founder permits, ibid. If the founder stipulates that the chaplaincies must be held by clerics,

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only those who are clerics can hold them, ibid. By the term "cleric," at least in these matters, is understood he who, having received the tonsure, wears the habit and tonsure, page 219. The legal patronage of a lay person should not be confused with a benefit or lay chaplaincy, page 579. The characteristics of an ecclesiastical chaplaincy are: the foundation is ordered by the founder, which does not exclude the intervention of ecclesiastical authority through the solemn decree of erection; the nature of the chaplaincy, which has all the characteristics that are usually found in ecclesiastical benefits; the manner in which the foundation was understood at the time of the foundation by those whose interests are involved, page 580. Causes of Servants of God. In the causes of Servants of God, the first judgment of the Holy See, which is issued regarding the introduction of the cause, in which the Episcopal process is reviewed by authority, and especially the reputation for sanctity, and any obstacles that may arise, so that the cause may proceed; therefore, it is carried out with great caution and accuracy, so that the pursuit of the cause to further stages may almost seem superfluous, page 521. The judgment given for the introduction of the cause, besides the title by which the person is presented to the Church as a venerable Servant of God, only grants the Promoters of the Faith the power to proceed with the cause in the remaining stages of judgment, with the authority of the Holy See, ibid. See CULT OF THE SAINTS. Public cemetery. The constitution of a public cemetery changes only the material place of burial; it does not change the rights of the churches, page 590. Once a public cemetery for the faithful has been established, it is the responsibility of the Bishop to adapt the ecclesiastical laws to this new situation; and to make rules for regulating the rights that concern the use of the cemetery, page 657. When public cemeteries are said to be established for profane reasons, the ecclesiastical legislator must, in adapting the ecclesiastical laws and regulating the rights, act in such a way that the ecclesiastical rights of the faithful and of the churches may be as little lost or hindered as possible, ibid. When establishing rules, it is useful to keep in mind what is done in Rome or in other...

[*Latin ed. p. 699*]

INDEX GENERALIS, once established and constituted for the dioceses, nevertheless, the legislator must always consider the specific situation of each diocese, its customs, the character of its people, and those things which might arise therein from new regulations, so that the law, within the limits of its jurisdiction, may be appropriate, and if it should be brought to judgment, it may be judged wisely, page 658. Custom regarding the choir. Generally, customs that are contrary to the prescriptions of the rubrics are easily classified as abuses, page 675. The more easily these contrary and diverse practices can flourish against a uniform and universal discipline, the more easily they are classified as abuses, ibid. Similar things can be

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said regarding those matters that pertain to universal laws that regulate the service of the choir and determine the obligations of the canons, ibid. It is futile to invoke a custom, even if it is ancient, if it is established by an unjust cause and is constantly maintained by the same unjust cause, page 667. Contracts concerning church property. Private agreements concerning the sale of church property, on behalf of the church that seeks to sell, have no force until the Apostolic approval is obtained, page 387. Therefore, whether the agreements are subsequent to a previous contract, or whether the contract is concluded by mutual consent, the church cannot be compelled by the aforementioned agreement or contract to fulfill the contract until the reserved approval is granted, page 388. This applies whether the church contracts with a civil person, or with another church, ibid. The opinion of the ancient authors, who teach that a contract concluded with the condition of obtaining Apostolic approval is valid, does not seem to be accepted in practice, ibid. Indeed, even after the form was established by Benedict XIV, concerning the sale of property of the Fiscal to T.O.S. ecclesiastical institutions, even with Apostolic approval for the execution of the sale to the best bidder, there are still twenty-sixth experiences that remain, and as long as these continue, the allocation of the property remains conditional, made to the first and less favorable bidder, ibid. The right of pre-emption, which is acquired in an auction, carries with it the obligation to complete the purchase contract with the seller, page 447. The right of pre-emption can be transferred to another person who desires it, provided that the consent of the seller is obtained, ibid. The assignee, in this way, enters into the same rights and the same obligations as the one who transferred it, ibid. The obligations consist in completing the purchase by paying the full price offered, by which the right of pre-emption was acquired, or in compensating the seller if the buyer withdraws from completing the purchase, ibid. However, there is a difference between the right of pre-emption acquired by legal auction and the right of pre-emption acquired by cession from another outside of an auction, ibid. The former extinguishes the rights and obligations of other bidders; the latter, however, if the right of the assignor towards the seller should expire, if the assignee does not fulfill his obligation, ibid. Especially if the seller is a pious foundation, which cannot worsen its condition through its own actions, ibid. A perpetual emphyteusis of church property is not made perpetual by the Apostolic See, unless there is clear evidence of the evident benefit of this perpetual alienation, page 204. Nor is Apostolic approval, which is necessary for the alienation of church property, usually granted unless the prescribed formalities are observed, ibid.

[*Latin ed. p. 700*]

700 INDEX GENERALIS Worship. It is fitting that public processions,

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when they occur, should be carried out with as much solemnity as possible; therefore, all the clergy of the same city or place may be compelled to participate in them, page 442. However, in public processions, customary practices should be observed, ibid. Worship of the Saints. The current discipline is that servants of God are canonized and included in the list of saints by a solemn decree of the Roman Pontiff, page 67. However, this discipline, in its essence, is very ancient, although the authority of the Roman Pontiff was not always exercised with the same solemnity, page 67. Many saints, however, have been venerated by the Church as if they were canonized, even though they were considered to be such by the common consent of the Church, and therefore they are inscribed in the list of saints, page 68. After a solemn decree of canonization has been issued, it is also desirable that the feast of the canonized person be celebrated by the entire Church with a double office: this did not always happen in the past; therefore, the Office and Mass for many saints (who are considered to be canonized by the common consent of the Church) are celebrated in some places, or are not celebrated at all, or are not celebrated with a double office, ibid. It is also the current discipline that a solemn decree of canonization is not issued until after a decree of beatification, page 69. However, there is a difference between the two, in that the decree of beatification does not constitute a definitive judgment of heavenly and earthly glory, but is rather a preparation for it, ibid. Therefore, the celebration of the Office and Mass, which is granted by the Holy See, is nothing other than a special indulgence granted only to those persons or places to whom it is granted, and which can also be revoked or discontinued, ibid. Many ancient servants of God are also venerated in some churches from very ancient times; and the Holy See considers them to be blessed, whenever it is established that their veneration has been long-standing; therefore, the celebration of the Office and Mass is granted or permitted to them by the Holy See, ibid. However, nothing prevents such a limited worship of the ancient servants of God from gradually spreading; not through a general decree of the Holy See, but through special concessions and indulgences, page 70. Such an extension can even reach the point that such a blessed person is considered to be a canonized saint by the common consent of the Church, and is finally inscribed in the Roman Martyrology, ibid. The causes of servants of God, which, due to their antiquity, were not included in the decrees of Urban VIII, are confirmed by a formal judgment through the simple recognition of public worship, page 458. Public worship, with regard to its extent, can be considered to have two extremes: a) worship rendered in only one church; b) worship rendered in the entire Church, ibid. In the recognition of the first type of worship, in order that the recognition be at least useful, it is necessary that, in the particular church, the worship that has existed since ancient times should still be observed, ibid. Such continuity is not considered to be interrupted by illegitimate obstacles that have prevented

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or suspended the celebration of worship, ibid. In the recognition of the second type of worship, it is not necessary to demonstrate the continuity of the celebration of worship, since the person is to be considered a saint if he has been celebrated in the entire Church for some time, even if only some vestiges of this celebration remain, page 459. Both types of recognition of worship are authentic for granting the celebration.

[*Latin ed. p. 701*]

701 INDEX GENERALIS Officii et Missae in locis in quibus Error personae. cultus vigeat vel in vigorem poni optetur : ideoque haec recognitionis liturgicos Beatificationis, Nihil Decreta eos fere gignunt effectus, quos gignunt Decreta interest, constet, ibidem. an in legatis intervenerit error nominis, si de persona legataria aliunde pag. 27. Excardinatio. Distributiones chorales. Iuxta Licet causas evidens ecclesiae numeretur abessendi inter rat choro et di- adscriptus seu peculiari ecclesiae a Consuetudinem de Clericis non resident, in 6 ; a t stributiones percipiendi iuxta cap . tamen nomine cccUsiae intelligitur clesia, cui servitium chorale ea Latiori sensu vel ut casu hoc in potest dioecesis, Concilium disciplinae perpetuo causae, repellendi : ad sae imitationem sita est in facultas quidem praecipua iure lem iniuriosa graviter violat, consuetudinem Eo magis causatae ad si re fuerint, suadendam perpetuo His rationem adiuncts. perpetuam decernenda, ibid. diei et individuam vitae tritus et Non am ex sese idoneae separationem duraturae, insont i ac id et vero non possit suae eidem Clerico stipendium, ibidem. si seminarii Clericus educatus, cogi quam si adsi- im- ibidem. tamen Clericus ex tamquam ex iustitiae e dioecesi demigrans aliqua peculiari lege forte constitu- ibidem. Videtur tate eccle- diócesis, eiusdem ecclesiae curis fuerit enu- potest fuerit sepa- postulante, a iudice est cogere ad restituendos seminario sumptus, nisi tum, ibidem. coniuge debito vix incar- 501. Clericum congruum officium pensis ne pag. sit coniuga- et sensu facultas non adeo infirma Episcopus Maxime vix canonico ordinatis seu excar- tamen paratus ibidem. plerumque vero se discessum possint, et iniuriosa desertione, canonicam videantur in cum poenis uae talem desertionem sinS dioecesi siasticis quae exigit, a e est, fidem ibidem. evasit Episcopi cau- de ertio obventura indetermi- Clericis quae gnare quae ecclesiae quoque Eadem ut spes saltem Clerici dinati Quemadmodum enim adulterium, ita diu- vel utidenegandi huius quoque ibid. turna et vel subsequitur, altera diuturna in a se adulterum necessitas infirmior dinationem, ius quoque eiusmodi vix amplius in con- soleat consideratae, Quare decernendam esse per- gi* ut utilitatis perpetuum coni laxior ita haberi quae 12 lapsu alicuiuspeculiarisecolesiaeyel pii loci , dioecesi separatio per- illi evasit, sideratione decernenda non est nisi qui Temporis disciplina sit causa um assumi- 500. nate harum pio loco utilitate sed potius alterutrius aut aut Divortium. Etsi ordi- ecclesiae pag. litas est huius nullum necessitate ibidem. pag. vestigiis statuit, adscribatur, percipiendas, separationem Tridentinum inhaerens, non legit-

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ime dictam teneretur, cuius sit suadeant, inservire pro ab- habeantur cui pag. 499. tur, tempore iustaeque qui incardinatus non esset alicui tamen, indultum graves pote- initiari, ecclesia ita Apostolicum petua quoad torum, nemo ordinibus debere, distributiones Divortium semiplenum, seu disciplinam sacris nari ad necessarium sentiae intelligi etiam utiliter ec- debetur, pag . 150. universalis veterem utilitas tamen suadente, posse Ordinarius, aequi- eosdem sumptus exigere tam- rationabiles conditiones, si Clericus

[*Latin ed. p. 702*]

702 He who desires to obtain something by law, cannot obtain it by equity, ibid. Or, he who, through excommunication, is considered to have voluntarily separated himself from the Church to which he is bound, has deserted it, and by that very act has renounced the rights which he possessed as a member of the GENERAL body, page. It is not, however, natural for a person to use the goods of life. The holy days are suppressed. It is the intention of the Holy See, when it restricts certain benefits, to ensure that the dioceses understand that the common functions and obligations of the Church must be maintained, even when the number of festivals is reduced, p. 381. Neither the reduction of festivals, nor the dispensation from certain obligations, should be easily granted to choirs of churches. The canonical attendance at Mass, especially on Sundays and holy days, is not extinguished by the reduction of festivals, even if the right of the people to association and liberty in the Church is diminished, ibid. The parish priest is free to choose the burial place for the faithful, but he must respect the customs of the place, p. 590. Neither the heirs nor the relatives of the deceased should regularly choose a church for the funeral, but rather the church to which the deceased belonged, ibid. It should not happen that someone who has received a benefit from the funeral chooses a church for the funeral, because the benefit is due to the church, not to the deceased, ibid. The heirs of the deceased should not invoke the rights of inheritance or association in connection with the funeral expenses, unless they are legitimately due, ibid. Neither the parents nor the children of the deceased can be excluded from the benefits of the funeral, even if they are minors, ibid. It is permitted to choose one parish for the funeral, ibid. It is forbidden for all ecclesiastical persons to induce the faithful to choose a particular church for the funeral, so that they may have all the benefits of the association, ibid. The parish priest, who has the right to derive benefits from the funeral, must share them with the parish, even if he has chosen the church for the funeral, ibid. When the funeral is held in a church other than the one to which the deceased belonged, the benefits of the funeral should be divided between the two parishes, ibid. To the two parishes that have the right to share in the benefits of the funeral, the Holy See grants the right to divide the benefits of the funeral, even if the deceased had the right to choose a particular church, ibid. The rights of the funeral are not extinguished by the

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death of the deceased, but rather they are transferred to the heirs, ibid. The parish priest is not obliged to pay for the funeral of a parishioner, but he is entitled to receive a portion of the expenses, ibid. The heirs of the deceased are not obliged to pay for the funeral of a parishioner, but they are entitled to receive a portion of the benefits, ibid. The rights of the funeral are not extinguished by the death of the deceased, but rather they are transferred to the heirs, ibid. The parish priest is not obliged to pay for the funeral of a parishioner, but he is entitled to receive a portion of the expenses, ibid. The heirs of the deceased are not obliged to pay for the funeral of a parishioner, but they are entitled to receive a portion of the benefits, ibid. The rights of the funeral are not extinguished by the death of the deceased, but rather they are transferred to the heirs, ibid. The parish priest is not obliged to pay for the funeral of a parishioner, but he is entitled to receive a portion of the expenses, ibid. The heirs of the deceased are not obliged to pay for the funeral of a parishioner, but they are entitled to receive a portion of the benefits, ibid. The rights of the funeral are not extinguished by the death of the deceased, but rather they are transferred to the heirs, ibid. The parish priest is not obliged to pay for the funeral of a parishioner, but he is entitled to receive a portion of the expenses, ibid. The heirs of the deceased are not obliged to pay for the funeral of a parishioner, but they are entitled to receive a portion of the benefits, ibid. The rights of the funeral are not extinguished by the death of the deceased, but rather they are transferred to the heirs, ibid. The parish priest is not obliged to pay for the funeral of a parishioner, but he is entitled to receive a portion of the expenses, ibid. The heirs of the deceased are not obliged to pay for the funeral of a parishioner, but they are entitled to receive a portion of the benefits, ibid. The rights of the funeral are not extinguished by the death of the deceased, but rather they are transferred to the heirs, ibid. The parish priest is not obliged to pay for the funeral of a parishioner, but he is entitled to receive a portion of the expenses, ibid. The heirs of the deceased are not obliged to pay for the funeral of a parishioner, but they are entitled to receive a portion of the benefits, ibid. The rights of the funeral are not extinguished by the death of the deceased, but rather they are transferred to the heirs, ibid. The parish priest is not obliged to pay for the funeral of a parishioner, but he is entitled to receive a portion of the expenses, ibid. The heirs of the deceased are not obliged to pay for the funeral of a parishioner, but they are entitled to receive a portion of the benefits, ibid. The rights of the funeral are not extinguished by the death of the deceased, but rather they are transferred to the heirs, ibid. The parish priest is not obliged to pay for the funeral of a parishioner, but he is entitled to receive a portion of the expenses, ibid. The heirs of the deceased are not obliged to pay for the funeral of a parishioner, but they are entitled to receive a portion of the benefits, ibid. The rights of the funeral are not extinguished by the death of the deceased, but rather they are transferred to the heirs, ibid. The parish priest is not obliged to pay for the funeral of a parishioner, but he is entitled to receive a portion of the expenses, ibid. The heirs of the deceased are not obliged to pay for the funeral of a parishioner, but they are entitled to receive a portion of the benefits, ibid. The rights of the funeral are not extinguished by the death of the deceased, but rather they are transferred to the heirs, ibid. The parish priest is not obliged to pay for the funeral of a parishioner, but he is entitled to receive a portion of the expenses, ibid. The heirs of the deceased are not obliged to pay for the funeral of a parishioner, but they are entitled to receive a portion of the benefits, ibid. The rights of the funeral are not extinguished by the death of the deceased, but rather they are transferred to the heirs, ibid. The parish priest is not obliged to

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heirs of the deceased are not obliged to pay for the funeral of a parishioner, but they are entitled to receive a portion of the benefits, ibid.

[*Latin ed. p. 703*]

703 GENERAL INDEX

Concerning the prescription of rights in each diocese: The double right, which arises from the domicile established there, pertains to the Parishes. If a Parish Priest dies, his heirs, appearing to be equal, may choose either of the two places as the place where he resided, and both will retain that place as their proper domicile. Having established this regarding the domicile of the deceased Parish Priest, the double right of the Parishes comes into play; the heirs may not refuse to acknowledge either domicile, but must use one as the limit for the application of certain benefits, including the Indult of mitigation (regarding the choral mass), and other benefits pertaining to the two places. These benefits are granted only to those who reside within the limits of the Parish.

Customs regarding funerals: See page 636. The funeral mass is said for the deceased, and if it is celebrated improperly, the ecclesiastical censures apply, but only to the person who celebrated it improperly, not to the heirs. If the cause of death is due to a contagious or general disease, the funeral mass may be granted to the deceased, even if the time for it has passed, but it must not be celebrated for any external reason. See page 381.

FUNERALS. Investment. Ecclesiastical immunity. Those who violate ecclesiastical laws are subject to ecclesiastical censures, but only regarding the service they performed. Regular investment is not the most important thing, but it is a sign of devotion. See page 141. Persistent refusal of the ministry is a grave offense. See page 377. The heirs of a Parish Priest who has died in office may be required to provide for the expenses of the funeral, but they are not required to do so if the event occurs unexpectedly, at least not in Genoa. See page 381. The choral mass is a reward for the labors of the choir, and it is not granted if the choir is not present. See page 381. The choir must be present for the entire mass, and they must sing the hymns that are prescribed. See page 381. The choir does not receive a reward if they do not sing the hymns that are prescribed. See page 381. The choir does not receive a reward if they are not present for the entire mass. See page 381. The choir does not receive a reward if they are not properly prepared. See page 381. The choir does not receive a reward if they do not sing with devotion. See page 381. The choir does not receive a reward if they do not sing in harmony. See page 381. The choir does not receive a reward if they do not sing with reverence. See page 381. The choir does not receive a reward if they do not sing with piety. See page 381. The choir does not receive a reward if they do not sing with humility. See page 381. The choir does not receive

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a reward if they do not sing with love. See page 381. The choir does not receive a reward if they do not sing with joy. See page 381. The choir does not receive a reward if they do not sing with gratitude. See page 381. The choir does not receive a reward if they do not sing with hope. See page 381. The choir does not receive a reward if they do not sing with faith. See page 381. The choir does not receive a reward if they do not sing with charity. See page 381.

Investment: Investment is the act of placing money or property in something that will produce a return. Investment may consist of the placement of money, or it may consist of the acquisition of stable and productive assets. See page 184. Investment may also consist of the acquisition of securities, or of the payment of debts. See page 210. The Indult of Jubilation is a remission of the penance due for certain sins. See page 465. The Indult of Jubilation is not granted to those who are irregular. See page 465. The Indult of Jubilation is granted to those who are regular. See page 465. The Indult of Jubilation is granted to those who are penitent. See page 465. The Indult of Jubilation is granted to those who are contrite. See page 465. The Indult of Jubilation is granted to those who are reconciled with God. See page 465. The Indult of Jubilation is granted to those who are in a state of grace. See page 465. The Indult of Jubilation is granted to those who are living a virtuous life. See page 465. The Indult of Jubilation is granted to those who are performing good works. See page 465. The Indult of Jubilation is granted to those who are serving God and their neighbor. See page 465. The Indult of Jubilation is granted to those who are striving to live according to the Gospel. See page 465. The Indult of Jubilation is granted to those who are seeking to grow in holiness. See page 465. The Indult of Jubilation is granted to those who are seeking to attain eternal life. See page 465. The Indult of Jubilation is granted to those who are seeking to be united with God in heaven. See page 465.

Irregular: A person is considered irregular when they are subject to a canonical penalty. See page 465. The reason for the irregularity may be a sin, or it may be a violation of canon law. See page 465.

[*Latin ed. p. 704*]

704 INDEX: Litandi periculum, pag. Irreverentia vel irregularis canonica iurisprudentia solet accipi. Primo, citur ut consueto, et qui ex absoluta arcetione, time suam sensu irregularis di- quas talis evaserit, defectum hoc primo non possit. Qui vero Episcopi est, quin consensus aut Capituli requiratur, abusus prudenter temporis in ca- qui ob thedralem denter irregularis, iure vel consuetudine ob irreverentiam, consequitur, evaserit ut habilitan corrigere, bricae et poenis, bus ut potestate Processioni Patronis ius non est domui ianuas aut fenestras, com- contiguis tur id obtinuerint, gravibus neque acquisitis aliquod ingerere, quod sit aede, coniuncta, ius patronatus; ibidem. Quae cum quidem sunt servandae causis, pag. 375. Con-

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fundenda earundem legum immutatio interpreta- ib. Si quae causae suppetant, quae aliquam voluntati testatoris faciendam suadeant, tantum derogatur, quantum causae exigere videantur, pag. Quare, si causae 503. quae derogationem sua- derivare non deant, cessare decursu temporis possint, de- quum rogatio iuspa- reale appellant, quodque rei inhaeret,, trasferri bonorum administratione rerum possunt potest tronatus, in publicaque bonis AUCTORITAS hae aliquatenus immutan- tamen derogationem pag. 184. Sese Clerum, ibidem. FORANEUS. Sede est tione, Apostolicam nisi S. sine limine fundationis id sibi reserva v erint, aut sacra interveniat, Non legum Ex solemniori- omnem fundationis sancte a in ecclesiae est in cogere VICARIUS Leges suae Patroni 675. Episcopi Lex Fundationis. templis facultatem pag. re- reluctantes quandiu maneat irreveren- neque per observantiam contra LAICA. ibidem. Templorum in etiam Processionibus Vid. lapsu fuerint invecti, ut R u- canones canonicis Iuspatronatus. per internas ss. additis In qui ecclesiam vocentur, qui nisi per Apostolicam facultatem ; municandi in 656. Solius arcetur litandi, pag. consilium irregularis periculum, dioecesis, legibus, debeant iure altero modo irregularis sit, tamdiu sacrificii facere legi- sine Apostolica venia irregularis manet causa tiae suo censuras discrimine modo iure administrationem auctoritatem adprobandis ministerio ibidem. Ex Episcopi Bolet non pro omni dicitur litando Sedes exserere violet ibidem. Sensu physicum sacro qui Sancta ibid. proprio sacro ille, inflictas, Altero a facto a ut lex episcopalis. Irreverentiae 582. Quare duplici saltem sensu vox in GENERALIS ad conceditur, determinatum dumtaxat tempus ibidem. Cum universitate tex quoad cessationem. Potest si praeexstiterit, et non ces- saverit; non autem si non praeexstiterit, aut cessaverit, aut translatum non fuerit, pag. 183. Quoties ad Fundator possessionem natus capellaniae primogenitum mulative postea primo indicata, ex vocaverit seu iurispatro- aliqua progenie cu- quae dispescatur, loco in plures primogenitus lineas ex progenie intelligitur vocatus in quavis linea hic Vid. CAPELLANÍA, pag. 25. LAICALIS. Emissum ad cohibendam tan- dis, et ipsum cessat: adaequata enim ratione legis cassante, et ipsa lex cesset oportet, pag. 140. Universa reperiatur. Decretum tum aliquam fraudem, cessante ratione frau- Matrimonium. Matrimonii hentium substantia consensu in consistit, libero pag. contra- 371.

[*Latin ed. p. 705*]

705 GENERAL INDEX: Therefore, marriage contracted in a hostile manner – It is not permissible to consent to a marriage that is contrary to divine law – such a contract is null from the very beginning, although custom, if it is not remembered, may persist. This custom must be observed, page 372. This custom is contrary to the pastoral office, which is military, and the marriage, being unjustly celebrated, is an unjust measure; the consequences of this are scarcely conceivable. Whether a marriage is valid depends on whether either of the spouses wishes to celebrate it, recalling its origin from

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divine law; although the execution of this is entrusted to and determined by the ecclesiastical law, ibid., it is valid, ibid. The obligation to apply Masses for the people rests upon all those who exercise pastoral care, whether they do so in their own name or in the name of another, ibid. Those who exercise pastoral care in the name of another are to give compensation to the titular parish priest; if such an obligation has not been considered in the assigned revenues, ibid. As any valid contract (especially if it involves only one obligation) does not require the contracting parties to know all the specific offices and obligations that derive from it; it is sufficient that the will of the contracting parties is expressed regarding the application of the Mass. The custom of applying the Mass to others, which was once universal, is still practiced in some places in Borussa; benefactors, ibid. As long as the marriage remains valid, the ancient custom, by which those who wished to perpetually receive the fruits of the Sacrifice would indicate, through the widow's veil, the dissolution of the marriage, and, if there is no hope of reconciliation, the Mass, in the canonical offices and in the customary prayers, used to be offered in commemoration of the spouses who are about to begin their life together, and it is still useful to implore these things through Apostolic prayers, page 604. It is the doctrine of the Congregation that in the foundation of church chapels, the Masses should be applied for the founder, so that they may have some indication of this, ibid. In each parish, the individual parish priests apply Masses for the people on the main and feast days, page 148, leaving the others, page 605, to the other priest as the principal one; as long as any parish remains distinct in reality, the right of the parishioners to have the application of the Mass belongs to that parish, which is a legal right: we consider what is more likely, or what usually happens, ibid. This right, which belongs to each parish, does not cease, page 149. Therefore, the parish priest, when celebrating, does not matter whether the parishes have been united or not, the unity of parishes governs, and as many Masses are applied for the people as there are united parishes subject to it, ibid. Those who are members of a certain church do not have the right to claim precedence or to ascend, except in the case where the parishes have been united in such a way that, with the suppression of all titles, they become one place through combination or absorption, ibid. Acts, volume 45, if at the time when the ascent was made, they were not (whether legitimately or illegitimately).

[*Latin ed. p. 706*]

706 INDEX: Concerning the abuse of the right of presentation, and the performance of duties pertaining to the honor of the Church, if a single person, through external influence, attempts to separate a parish from its rightful pastor, or to prevent the Church from fulfilling its purpose when the pastor proceeds according to the dictates of the Chapter, this is to be considered a grave offense. Therefore, the clergy should not, under any

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circumstances, grant the right of presentation, either in the Cathedral or in any other parish, to those who have been previously convicted of such offenses. The Holy Congregation has decreed that the canonical removal of a pastor, as well as the assignment of a suitable and permanent replacement, should be carried out in a proper and timely manner. Page 645. Unjust partition. A pastor should not be removed from his parish due to lack of skill, but rather for just cause. However, a pastor may be removed if he is found to be seriously deficient in his duties, or if he is otherwise unfit to serve. It is not permissible for a pastor to be forced to relinquish his parish solely because of his lack of experience. The simple laws concerning the division of property should not be used as a pretext for depriving a pastor of his rightful portion. A pastor who has been unjustly deprived of his parish may be reinstated, provided that he is otherwise qualified. The ecclesiastical judge, with the consent of the bishop, may determine the proper compensation to be paid to the pastor. Page 80. Sacred patrimony. It is not permissible for a bishop to claim ownership of the patrimony of a parish, even if he has been granted a title of nobility. In fact, any such claim would be invalid. A title of nobility does not confer any rights over the patrimony of a parish. The legitimate rights of a pastor must be respected, and he should not be deprived of his rightful share of the parish's resources. Page 127. Bishop's admonitions. The admonitions given by a bishop to a pastor are binding, and the pastor must obey them. However, the bishop should not use his authority to punish a pastor for minor offenses. A pastor who has been canonically removed from his parish should be given a fair opportunity to appeal the decision. Page 196. Legitimate rights. The legitimate rights of a pastor must be respected, even if he has been removed from his parish. A pastor who has been unjustly deprived of his parish should be given compensation for his loss. The bishop should not use his authority to deprive a pastor of his legitimate rights. A pastor who is appointed as a coadjutor should be given a fair opportunity to serve the people of his parish. It is not permissible for a pastor to be removed from his parish solely because of his lack of experience. The bishop should not use his authority to force a pastor to relinquish his parish. A pastor who has been unjustly deprived of his parish should be given a fair opportunity to appeal the decision.

[*Latin ed. p. 707*]

707 INDEX GENERALIS set Privileges concerning the extinction [of rights] or suspension, until another legitimate title is duly substituted, page 128. That condition, if added in some way, is not considered to be added, and constitutes a legitimate national title derived from privileges; the industrial orders, the use of which changes the burden, are found there. Ecclesiastical benefices are not associated with a title, hence a pensioner does not acquire ownership of the benefice; therefore, the burdens which

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immediately follow are valid, as is fitting, page 191. A pensioner, by prescription, can rightly claim equity, as is certain, ibid. Equity does not suggest that, in such a case, a greater pension should be diminished by any external right, but rather that the pension, which is attached to the privileges, should be maintained for a long time, even if it should happen that the person is no longer a cleric (and thus would no longer be entitled to the privilege); in this case, the maximum use of the privilege is truly advantageous, ibid. A privilege of choosing the more profitable [option] is subject to certain conditions, ibid. In causes to be judged, a summary procedure is required, provided that a certain part of the fruits is granted, which is demanded by the ecclesiastical authorities, and all forms which are prescribed to human judgment are increased, the ordinary [bishop] must consider them, but justice should always be the primary concern, or it will not be considered to exist, ibid. Justice, by its very nature, intervenes when necessary, and eliminates all things which, by quantity, diminish the equity of fruits, pensions, and other things, page 11. All those things can be treated in more than one way, but not solemnly, ibid. Causes which can be treated summarily do not require the full process, and even if equity is diminished, the title of the person remains, and the ecclesiastical authority does not ignore the negligence, but rather constantly seeks to substitute it, ibid. Equity or estimation does not allow for an exception to be made for a pensioner, but rather a certain portion of the fruits, even if it is less than the full amount, should be granted, based on the foundation of the privileges, ibid. The same presumption (which, in fact, supports the title) is diminished by the change of circumstances, so that, if 40 years have passed, the pension should be reduced, ibid. Or, if the fruits are immediately superimposed, they should be diminished, which is indicated by the privileges, ibid. Neither renunciation nor presumption of ignorance are valid, and an interval of time is not necessary for such burdens to be imposed, ibid. A pensioner who is burdened with the fruits of a benefice by the very law, and who receives a certain part of the fruits from outside, cannot be called a "contingent" [beneficiary], but rather a pensioner, page 190. These things do not affect the fruits immediately, but rather the person and the nature of things, and the interruption [of the pension] does not affect the fruits, ibid. Pensions, ecclesiastical in nature, which are subject to certain conditions, are called into judgment, so that those who have a right to them may receive them, ibid.

[*Latin ed. p. 708*]

708 INDEX: Si quis ignorat, et si alii eorum causam iudicandam putant, iura sua testemque fensionem adducant, et quae emittantur, ignorare non possunt, ut in sui sententiam, non possint, pag. 12. Substantialibus servatis, etsi fuerit, tamen ea solemnitatibus emissa, ideoque illos effectus, quos sententia iuridica iusta canonibus non potest rite parit.

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Graves accusationes et querimoniae, quae Parochum derandae sunt Accusatoris, In Inquit, prius ss. r ibid. rite introducta in Sacris Congregationibus, quin, auctoritate tribunali legitimo avocetur, quae exigunt accuratum tractationem, ad 80. Curia debet per inquisitionem, nisi prius episcopali processus constructus fuerit, ibidem. Canonicae accusationes, ut Promissio, latae pro causis sumdari non pag. 86. Ita, quibus agendi* pecunia servandae praescribuntur Apostolica, pag. alicui servanda, fide ideoque oriuntur, possunt, tamen intelligenda, sit est data pag. 196. Data ex promissione fides est ut iudicandum, in re pag. dubia pro promissore 197. Observantia dispensetur, dignoscendam, subtracta consulant, non a Cansae, non di-Regulares quoad Beneficia, 433. Per complexa vindicatione bonorum, quae subdole a pag. 634. Spensatur super probationibus necessariis ad veritatem pasto- iam cessum, in Sacris Congregationibus non per- sed si forte super solemnitatum auctoritate ecclesiae dicantur, ius professionem amittunt a.d religiosam. Regulares possidenda Beneficia Cleri ordina- saecularis, et ad ecclesiasticos eiusdem Cleri eccles asticum iudicium, citatis scilicet proventus percipiendos, experienda rium iustitiae ex solemnitates. In et gationes in est poenas sancitas cognoscant suaeque con debent, frustra lis, excomremedium secunda fideles tribunali SS.mi, iuris Iudicem, pag. pertractari defi; iondis, est Causa ecclesiastica gitimo ecclesiasticis, quaeiuxta for- leges causis liares scientiae distin- bonorum declarantur enim ut constare possit, admiss's accusati, canonicam civilibus fieri super veritate invocantur dicta veritate, autem iudiciis tamquam debent indicandum, earum defensionibus consi- movere processum earum deferantur, simpliciter ad de Inquisitio nicum Curiae quae quidem rendum mam officium, est usurpatores. Edictum prima gregationibus contra procedendi qua recuperanda; forte parere sententia bona rale vim non habet, ratio alia, generale non ibidem. dè per ab municati : ad His non Eiusmodi guenda partibus, fensore sunt iuris constituto si desit, remedia ecclesiae contestata per spoliatae lite, de-Id enim postquam tatis votum, impedit pag. 90. tantum pauper- quod vetat quominus Regulares ab Ordinario inquisitio facta fuerit. Maxime bona uti propria possideant ; sed ipsa status vero iuri Regularis conditio, reliquo experiendi causam in prima instantia coram hisce iuribus Ordinario ibidem. Si una pars Iudice, detentores documenta cognitionem non renuntiet pag. 610. bonorum abscondita necessaria, potest praemissis, communicationis cogere ad ignorentur, maneant admonitionibus possint, suo revelandum, sub fideles, ibidem. Vol in Cessante qna a Regulares Clero segregantur, regulari ratione vivendi ex vio- torum substantia, poena ex- mittantur ad haec iura Cleri saecularis par- qui id scire ticipanda. Cui rei per Pontificium Indultum ad prospicitur, pag. 91. convenit, ut, salva vo- Regulares Sacerdotes ad-

[*Latin ed. p. 709*]

709 INDEX GENERALIS: Regulares concerning funerals. If a parish

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priest, by chance, has jurisdiction over the parish where a Regular dies, he is not permitted to perform the funeral rites, but rather the Regular's own community should do so, if possible. However, if it is not possible for the Regular's community to perform the funeral, the parish priest may, under certain circumstances, be granted a dispensation to do so, see Apostolic Constitutions, page 434. Resolutions of the Holy Congregations concerning the nullity of a Regular's profession within his own parish, if a doubt arises concerning it, can be transferred to another parish after five years, provided that the Regular has not been absent from his own parish for five years. If, however, a doubt concerning the nullity of a Regular's profession arises, and it is necessary to administer the sacraments of extreme unction to the ailing Regular, this can be done, see Resolutions of the Holy Congregations, which do not express doctrinal principles, page 137. Regulars, who have not been dispersed by violence, and who are exempt and are understood in an abstract sense, must be understood according to the specific circumstances of the case, page 678. The privileges which they possess are not something they can decline, but are inherent to their state, see ibid. Therefore, the rights of Regulars cannot be suppressed by illegitimate means, nor can they be treated as if they have lost those rights simply because of some resolution or ecclesiastical decree. Those who do not understand and apply the ecclesiastical laws correctly, and who assume that the rights of Regulars cease in some way before the civil law, are easily mistaken. All matters must be considered in light of the specific facts to which they refer, see ibid. See also: PROCESSES IN JUDICIAL CASES, 590. With these things in mind, the legitimate rights of Regulars pertaining to their churches remain, see ibid.

Obligation of the promise of marriage, which consists on the one hand of the promise to enter into marriage in the future, and on the other hand of the reciprocal promise to do so.

Regulars concerning their profession. A Regular who questions the validity of his profession cannot be heard if five years have elapsed since the time for appealing. Even if he is heard, if he resides outside the monastery in an extraordinary benefice, he must restore what he has received, in which case the nullity of his profession will be declared. This benefit is granted on the condition that he has been in a state of grace. If it appears that he was not in a state of grace, he is bound to restore everything he has received, as if he had never been a member of the order. If, after having been diagnosed as a virgin, a woman is later found to be pregnant, she is bound to maintain the fidelity that she promised, even if she is pregnant. The Holy See assumes jurisdiction over the questioning of a profession, and if the profession is found to be valid, the obligation to restore what has been received is imposed on the woman and the man. The suspension from divine things is perpetual, if, after an inspection, the obligation is found to be the most serious, see ibid., page 85. The promise

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is expressed, see ibid., page 21. If the validity of a profession is questioned for reasons that are not of a serious nature, or for reasons that do not seriously damage the honor of the order, the person who questions it is not subject to any penalty, unless he has acted with malice or for more serious reasons.

[*Latin ed. p. 710*]

710 INDEX: Quare alia prudentiora hibenda a Iudice gladium deveniat, Causa media sunt GENERALIS Onus reparandi paroeciale templum, quod ibidem. suspensionis negigentia Parochi imbuendis in esse potest diuturna in fidei pueris rudibusque rudimentis festis diebus ac in socordia in sacramentis administrandis, spretis paternis Episcopi redditus ad id sufficientes non habeat, primo in Parochum qui supersint, subtractis necessariis ad suam sustentationem, In subsidium qui Monarchica sionem ex facultas, informata infligendi suspen- conscientia, summa discretione et in quibusdam tantum adiunctis Episcopo est adhibenda, pag. forte deant, sunt, in emptione Quare alicuius legitima aedificii sit tui non cum sacra aedes potest patronatus utiliter dici minum adspectu publico cul- aedes dici sacra potest, esse templa posse. vendita, materialem Deo ′auctoritate Ecclesiae dicatum est, in profano commercio esse non clesiae potest, in vertatur, conditis ibidem. non utilitati fanos usus quaeque fideli quae locis essent, veniunt, quum est per taxas proportione ser- Propositum et cognita, et in significata, potest commeicium desinant, non fuerit significatum, ad profanas pias, etsi significatum non quod aliquo modopag. 97. exigunt certo causas, sed etiam ad causas testamenta ad causas pias non alias solemnitates, constare possit, praeter talem eas, quibus fuisse ultimam ibidem. Transactiones. Transactiones haud de sunt sine ibidem. quaeque capellani transferenda foite in ea exseu sunt cum ti- iisdem sacrisque pietatis christianae inter ecclesiasticis firmae confirmatione Veteres transactiones Beneficiorum, ecclesiam conventiones Apostolica, pag. 441. ibidem. aliam seu iuribus stiterint, ibidem. * sit, non vertatur oneribus, inter- Id habet locum non solum in testamentis vi tulis, ad in eo quod modo iuvare id sunt monumentis, intra aliquo constituendum pretium seu emolumentum in utilitatem conquae quidem ad confirmatae, in quae voluntas testatoris aliunde autem non est, bonis ibidem. pretandum ecclesias sacra esse autem super testamento ut loci materiaeque Aequum ibid. Testamentum. sordidos converti hominum mittere, desint, venit populus,, in nuncium re- Ideoque templa auctoritate episcopali, ita reddita, Patroni si adsint, qui possideat, adeo fatiscant, ut populo dummodo non possunt/ pag. profana imponendas voluntatem, paroecialia sistant, neque iure nisi eadem auctoritate E c - profanum aedificium penitus con- Templa cogendus vata in commercio ho- Quod Beneficia possi- venditione structuram esse pretio aestimabilem, ideoque hoc iuri qui paroeciam pag. 183. sub veniunt Denique, si omnia 182. eiusdem aedificii pretio

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empta Neque templo omnium redditibus deficientibus, antea religiosi, cai adnexa coniunctaque destinata, pag. 686. tenenturauttemplum instaurare et reficere, 22. sacra cultui publico destinata extra commercium eodem subsidium Templa quoad" alienationem. Loca in pag. veniunt reliqui Beneficiarii ibidem. Horum in aut hominum incumbit ex redditibus paroe- ciae, admonitionibus, ibidem. ab Templa quoad reparationem. ad- antequam ad censurarum Non consuetudinis tamen a S. firmitatem vel Sede forte acquirere pos- praescriptionis, Apostolica confirmatione, ut firmae maneant, indigent illae transactiones, quae non gravia respiciant ecclesiarum iura, quasque, necessitate vel ordine cogente,

Wherefore, certain more prudent measures, at the discretion of the Judge, may be taken. The primary reason is the general burden of repairing the parochial church, which, if the parish priest, through negligence, fails to properly instruct the young in the faith and its rudiments, especially on holy days and in the administration of the sacraments, and if the revenues sent by the Bishop for this purpose are insufficient, must first be borne by the surviving parish priest, after deducting what is necessary for his own support. As a secondary measure, and with due consideration and discretion, the Bishop may, in certain cases, impose a suspension, informed of the situation, from the benefice, drawing upon the resources of the monastic order, if available.

Why can a legitimate building not be properly called a sacred edifice, even if it is sold to a private individual, provided that the Church has the authority to dedicate it to God, and it is not used for profane commerce, but rather for the benefit of the faithful who frequent it? The purpose and intention, once known and signified, can cease to be sacred, even if the intention was not explicitly stated, for certain causes, but also for other causes, as long as they do not contradict the ultimate purpose.

Transactions concerning ecclesiastical matters are not valid unless they are confirmed by the Apostolic See. Old transactions concerning benefices, which have been established by custom or by law, remain valid, unless they are altered or revoked. This applies not only to testaments, but also to all other documents that are intended to benefit the Church.

It is not necessary for a testament to contain a specific clause stating that the property is to be used for sacred purposes, provided that the testator's intention is clear from the context. Therefore, a temple, once dedicated by the Bishop, remains sacred, even if the patron, who owns the property, does not use it for profane purposes, and even if he does not maintain it, provided that he does not prevent the people from using it for religious purposes.

A profane building cannot be considered a temple, even if it is sold at a price that reflects its value. Therefore, this right does not apply to parochial churches, even if they are sold for the same price as other buildings.

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Finally, if all revenues are insufficient, the religious order that holds the benefice is obligated to restore and repair the temple, and to provide for its upkeep, even if it is not specifically designated for this purpose.

Temples, with regard to alienation, are subject to the same laws as other property. The remaining beneficiaries are obligated to contribute to the repair of the temple from the revenues of the parish, as long as they are not subject to burdensome obligations.

Temples, with regard to repair, are subject to the same laws as other property. However, transactions concerning ecclesiastical matters require Apostolic confirmation in order to remain valid, especially those that do not involve serious violations of the rights of the Church, and those that are necessary or required by law.

[*Latin ed. p. 711*]

711 GENERAL INDEX: Parts, equally, with authority, begin; a transaction, begun between those of the same rank, nor can the clergy of the same diocese extinguish controversies afterwards, but with the authority of the Holy See, which, having been confirmed there, becomes a perpetual law of the Church. That, therefore, which afterwards happens, by which a case arises, can be rescinded by the authority of the Apostles, or reduced to equity, if, after the transaction has been completed, a grave matter arises which was not foreseen; a legal agreement (saving matters of importance), of a burdensome nature, is therefore, and consequently, transferred or begun, for what has been done there, can be resolved from that cause alone, after it has been begun, which is held to be true: page 619. In the case of the clergy, the same transaction applies, and an emolument may occur through error, to the detriment of the contracting parties; if, through the lapse of time, circumstances have changed, the vicarius foraneus exercises the episcopal power over the people; the same is resolved ecclesiastically, if in him a case has been rightly committed, with the authority of the Bishop; *Foraneum designatum*, page 442.

[*Latin ed. p. 712*]

OF THE SOCIETY OF THE PRINCIPAL APOSTLES. We have dedicated this year, 1870, Appendix III, in which the manner and progress of this pious Society are described, accompanied by Apostolic Benediction, and the rendering of accounts of the offerings of the year 1869, and of the expenses incurred in promoting this pious Society. At the close of the year, in concluding Volume Fourth, we wrote that the Seminary would be begun privately for the next academic year, that is, in the month of November 1869, reserving it then to be opened publicly with increased offerings and students. However, while preparations were being made to begin the Seminary privately, difficulties arose, which reasonably prevented us from being able to give it such a beginning: and we informed our fellow Promoters

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of this. What did not occur last year, will, for a better reason, occur this year: for a house has already been designated, in which at least four students will be received in the month of November, for the principal purpose of supporting them from the offerings and revenues of the pious Society, if they have nothing to contribute to the Seminary; and also others who, having paid a suitable fee, desire to acquire ecclesiastical knowledge in Rome, at the disposal of their own Bishops.

*** — IMPRIMATUR.**

Rev. Marianus Spada, Order of the Discalced Carmelites.
IMPRIMATUR.
Most Reverend Joseph Angelini, Archbishop of Corinth, Vicar General.

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